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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

नोटिस NOTICE

नीचे लिखे भारत के असाधारण राजपत्र १४ जुलाई, १९६५ तक प्रकाशित किए गये।

The undermentioned Gazettes of India Extraordinary were published upto the 14th July, 1965:—

Issue No.	No. and Date	Issued by	Subject
155	S.O. 2213, dated 8th July, 1965.	Ministry of Information and Broadcasting.	Approval of film specified therein.
156	S.O. 2214, dated 8th July, 1965.	Central Board of Direct Taxes.	The Income-tax (Determination of Export(Profits) Rules, 1965.
157	S.O. 2215, dated 9th July, 1965.	Do.	Corrigenda to S.O. 3660, dated 13th October, 1964.
158	S.O. 2216, dated 10th July, 1965.	Ministry of Industry and Supply.	Taking over the management of the India Electric Works Ltd., Calcutta for a further period of one year.
159	S.O. 2217, dated 12th July, 1965.	Ministry of Home Affairs.	Rescinding the notification No. F. 106/28/36, dated 1st April, 1937.
160	S.O. 2218, dated 12th July, 1965.	Ministry of Commerce.	Further amendment to the Exports Control Order, 1962.

Issue No.	No. and Date	Issued by	Subject
161	S.O. 2219, dated 12th July, 1965.	Ministry of Law	Declaring the result of the 20-Chickballapur Parliamentary Constituency.
162	S.O. 2281, dated 13th July, 1965.	Ministry of Information and Broadcasting.	Approval of film specified therein.
163	S.O. 2282, dated 14th July, 1965	Ministry of Labour and Employment.	Delegation of powers under the Industrial Disputes Act, 1947 to the Chief Commissioner of Delhi for the Union Territory of Delhi.

ऊपर लिखे असाधारण राजपत्रों की प्रतिपां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मंगपत्र भेजने पर भेज दी जाएंगी। मंगपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुँच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षामंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकारियों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएँ।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 26th June 1965

S.O. 2292.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 31st May, 1965.

MEMBER, ELECTION TRIBUNAL, PATNA
(DISTRICT JUDGE OF PATNA)

PRESENT: SHRI CHANDRIKA PRASAD SINHA
The 31st day of May 1965

ELECTION PETITION No. V OF 1964

Shree Sheel Bhadra Yajee.....Petitioner
versus

Shri Rajendra Prasad Jain and others.....Respondents.

For the petitioners—Shree K. P. Verma, Advocate, Shri Jugeshwra Pd. Sinha, Advocate.

For the Respondents—No. 1 Shri Awadhesh Nandan Sahai, Advocate, Shri Dipnarayan Lal, Advocate.

For the Respondent—No. 10 Shri H. L. Agarwal, Advocate.

JUDGEMENT

This election petition has been filed by Shri Sheel Bhadra Yajee under section 80 of the representation of the People Act, 1951 challenging the election of respondent no. 1 Sri Rajendra Prasad Jain to the Parliament (Rajya Sabha). The petitioner was one of the contestants in this election but was defeated. His prayer in this election case are twofold, to declare the election of respondent No. 1 void and to declare him (petitioner) to be a duly elected member of the Rajya Sabha. The case of the petitioner as set out in the election petition, shortly stated, stands as follows:

2. In this Rajya Sabha election, eight members were to be elected from the Bihar Legislative Assembly Constituency. For this the petitioner and the respondents (12 in number) offered themselves as candidates. Subsequent to the acceptance of the nomination papers of the candidates, two of them, namely, Maharani Durgeshwari Sahi and Girjanandan Singh, who were in the field as independent and Socialist party candidates, withdrew their candidature on the 16th March, 1964 and did not contest the election. Of the remaining 11 candidates, six viz. petitioner and respondents 2 to 6 had been set up on behalf of the Congress party, respondent no. 7 by the Praja Socialist party, respondent nos. 8 and 10 by the Swatantra party and respondent nos. 1 and 9 were independent candidates. The election was conducted by the Bihar Legislative Assembly Secretary as the Returning Officer. In due course, the poll took place on the 26th March, 1964 and the votes were counted and result announced the same day. In the result so announced, respondents 1 to 8 were declared elected whereas the petitioner and respondent nos. 9 and 10 were declared to have been defeated, having secured votes as detailed in paragraph 11 of the election petition.

3. The Bihar Legislative Assembly consists of 318 members of which 205 are of the Congress party, 47 of Swatantra party, 30 of Praja Socialist party, 7 of the Socialist party, 12 of Communist party, 4 of Jan Sangh and the rest independents. In this election where voting was by single transferable vote, a candidate was to secure 34 first preference votes for his success. Regard being had to the above party-wise break-up of the M.L.As. in the Assembly, the Congress party set up six candidates so that all of them could be elected without any doubt by first preference votes of the members representing it. To ensure success of these six candidates, the Congress party divided its M.L.A. voters in six groups of 34 each who were respectively attached to the different candidates with necessary mandate to cast their first preference votes in favour of these candidates, and their (voters) signatures were also obtained earlier to the polling. During that grouping, 34 Congress M.L.A. named in paragraph 15 of the election petition were allotted to the share of this petitioner with party direction to cast their first preference for him (petitioner). The voters belonging to other parties were also similarly grouped and directed to vote for the candidates of their own party with first preference. Respondent no. 1 who was an independent candidate having no political background or residence in Bihar had however no group, party or voter to support his candidature.

4. Respondent no. 1 who is related to Sri Ramkrishna Dalmia and Sri Shanti Pd. Jain is a big capitalist and has a large purse so as to be in a position to purchase votes. He (respondent no. 1) has also got subsisting contracts with the Central Government and its authorities for supply of goods and also for execution of works undertaken by Government which disqualified him for being elected as a member of the Parliament. He is also disqualified for this office because he is Director, Managing Agent, Manager and Secretary of various companies and Corporations in which the Central Government has 25 per cent or more shares.

5. In this election Vishwanath Pd. Verma, resident of Patna, was the Election Agent of respondent no. 1 and one S. R. Dutta who is also a resident of Patna was his worker and agent. The respondent as also these two persons with his (respondent's) consent and knowledge resorted to corrupt practice and paid money to several voters of the petitioner and of other candidates, particulars of which are noted in 10 Schedule I annexed to the election petition and secured their first preference votes in his respondent no. 1) favour. They also offered and promised to offer money to several voters including those of the

petitioner for the purpose of obtaining their votes whose details are set out in Schedule II of the election petition. As a perusal of the ballot papers would show all the votes secured by him (respondent no. 1) were of the voters of the petitioner and other candidates which he had no other means to secure except by bribing them. Moreover, the counting and scrutiny of the ballot papers was also not conducted according to the provisions of part VII of the Conduct of Election Rules, 1961 so that the ballot papers which were fit to be rejected were wrongly counted in favour of respondent no. 1. If those invalid votes and also the votes that he (respondent no. 1) had received through corrupt practices are eliminated it would be evident he (petitioner) had received the majority of valid votes which entitled him to be declared elected. For these reasons, the election of respondent no. 1 which was illegal and void should be set aside and he (petitioner) be declared duly elected.

6. Written statements have been filled in this case on behalf of respondent nos. 1, 8 and 10. Except filing the written statements nothing has been done by way of contest by respondent no. 8. So far as respondent no. 10 is concerned cross-examination was held on his behalf of respondent no. 1 who has been examined in this case as R.W. 13. A prayer was thereafter made on his (respondent no. 10) behalf for permission to adduce his own evidence which was rejected by the Tribunal and his civil revision against that refusal was also dismissed in the Hon'ble High Court (vide civil revision no. 355 of 65). His Council has, however, advanced argument in the case. He (respondent no. 10) has alleged receipt of votes by respondent no. 1 after resorting to various corrupt practices resulting in his (respondent no. 10) defeat. His case further is that the petitioner of this case had absolutely no chance of success in this election and it was he (respondent no. 10) who was prejudiced by this corrupt act of the respondent no. 1 and that this whole election should be set aside and fresh election ordered.

7. The case has been really and hotly contested by respondent no. 1 who has filed two written statements the first on 20-6-64 and the additional one on 28-11-64. His defence, *inter alia*, are to the following effect.

8. The election petition as framed is not maintainable for its failure to comply with the mandatory provisions of section 81 of the Representation of the People Act with regard to presentation, attestation, verification and affidavit. As far as he is aware, the other contestants in this election did not owe allegiance to any political party nor they were contesting it on behalf of any party. There is also no list to show as to which of the M.L.As. owe allegiance or belong to which political party or that what are the specific strength of the political parties in the Assembly. The Congress had not divided its votes into groups, nor had issued any mandate or direction to any voter or group of voters to cast their first preference to the petitioner or for any particular candidate because there is nothing in law to coerce or influence any voter to vote for a particular candidate under any or all circumstances. Moreover, as far as he knows, the Congress had not got up any candidate nor any Congress candidate could be elected by first preference votes without any doubt.

9. It is false to say that he (respondent no. 1) is a capitalist and is possessed of sufficient funds to purchase votes. So also is the case with the allegation that he has no political background and is a resident of outside Bihar. On the contrary, he has been a popular candidate, and more than sufficient number of voters were willing to support his candidature out of their own accord and free will. Any S. R. Dutt was never his (respondent no. 1) worker or agent in this election. He or with his consent or knowledge his agent or worker had never practised any corrupt practice by paying money or offering or promising to offer money to any voters for the purpose of obtaining their votes in his (respondent no. 1) favour, and the allegations in the election petition in this regard are maliciously false besides being vague and indefinite.

10. So far as he (respondent no. 1) knows that counting and scrutiny of the ballot papers was done in accordance with law, and even assuming that it was not done so, but that had not affected the result of the election in any manner whatsoever; no ballot paper fit to be rejected had been counted in his (respondent no. 1) favour nor he had received any invalid vote. On the other hand, two ballot papers which were in his (respondent no. 1) favour and should have been counted in his favour were wrongly rejected by the Returning Officer.

11. The so called Congress party in the Bihar Legislative Assembly is not a well-knit or homogenous political party but is a conglomeration of a number of warring groups owing personal allegiance to several leaders either on the basis of caste or of personal affiliation. The candidates set up by the Congress party in this election did not find favour with a large number of voters, specially because no member of the backward classes or scheduled castes or tribes had been included therein. This fact apart, the petitioner was socially and politically very unpopular person because of his past political career which was ever changing from Kishan Sabha to Forward Block, Socialist party and Congress and also because he was considered to be a staunch casteist. Moreover, the so called mandate to cast first preference in favour of particular candidates issued by the Congress was blatantly disregarded by the so called members of the Congress party and they voted freely for the candidates of their choice notwithstanding the fact that undue pressure as defined in section 123 of the Representation of the People Act was practised on them by the petitioner and his other supporters with his (petitioner's) consent and knowledge.

12. In this case, a recriminatory petition under section 97 of the Representation of the People Act has also been filed by the respondent no. 1 on the allegations, amongst others, that in this election the petitioner Sheel Bhadra Yajee his Election Agent Ram Jatan Singh M.L.A. and his worker Krishna Saran Malhotra (with the consent of the petitioner and the election agent) made appeal to the voters in the name of caste and community to cast their first preference votes in his favour whose particulars are detailed in annexure I of this recriminatory petition. Similarly, they (petitioner and his agent) had also exercised undue influence on the voters to secure their first preference votes in his favour to achieve which they had obtained their (voters) signatures as per details set out in annexure II of this petition. Apart from this, case of (petitioner's) his ballots which are fit to be rejected were wrongly counted in his (petitioner's) favour though two of his (respondent no. 1's) ballots which were fit to be counted were wrongly rejected. On these facts, respondent's contention is that if the votes that he (petitioner) had secured by such corrupt means were eliminated his (petitioner) votes in final counting would have been nil and as such his (petitioner) claim for declaration regarding being duly elected in this election is wholly untenable and fit to be rejected.

13. In the written statement filed by the petitioner Sheel Bhadra Yajee in reply to this recriminatory petition, he has emphatically denied that he (petitioner), his election agent or any one on their behalf or with their consent had ever appealed to the voters in the name of caste and community or had ever exercised any undue influence on them in that respect. His assertion is that there was no interference by or on behalf of the petitioner on the free exercise of their electoral right and the votes that were polled in his (petitioner) favour were quite free from any undue influence and corrupt practice, though contrary to this the votes secured by respondent No. 1 were the result of corrupt practices committed by him and on his behalf as alleged and elaborated in the election petition. His further assertion is that if the counting and scrutiny of the ballot papers had been done in accordance with rules and if there were no corrupt practices of the above nature by the respondent No. 1 and his man, he (petitioner) would have surely been declared duly elected. He has also denied the respondent's claim that his ballot papers which should have been counted were wrongly rejected. While refuting that no man of the name of Krishna Saran Malhotra was ever his agent or worker in this election, he has asserted that he has no acquaintance with any such man and it may be that the respondent No. 1 has brought his name in the picture to concoct evidence as he is his (respondent No. 1) man.

14. On the pleadings of the parties the following issues have been framed for decision.

1. Is the election petition maintainable?
2. Is the recriminatory petition maintainable?
3. Whether respondent No. 1, his Election Agent and his worker (with the consent of respondent No. 1 and his election agent) committed corrupt practices under section 123 of the Representation of People Act, 1951, as alleged?
4. Did respondent No. 1 receive votes by means of corrupt practices as alleged, and are the votes fit to be deducted?
5. Was the counting and scrutiny of ballot papers done incorrectly and against law, as alleged?

6. Did the petitioner receive majority of valid votes and is he fit to be declared elected?
7. Was respondent No. 1 disqualified to be chosen and to be the member of the Parliament under section 7 of the R. P. Act, 1951 and under the constitution of India, as alleged?
8. Are the allegations made in the recrimination petition filed by respondent No. 1 correct? If so, what will be its effect on the claim of the petitioner to be declared duly elected in the Rajya Sabha?
9. To what relief, if any, is the petitioner entitled?

15. *Issue No. 1.*—The maintainability of the election petition has been challenged before me by the respondent No. 1 on these grounds. From the endorsement on the election petition it is clear that it was presented on 24th April 1964 before Sri Roshanlal, Under Secretary to the Election Commission of India. The petitioner has not, however, produced before the Tribunal the authority of this officer to receive the election petition and in the absence of his authority in this behalf, it can well be presumed that it has not been properly presented within the meaning of section 81 of the R. P. Act, 1951. In this connection, my attention has been invited to paragraph 8 of his written statement where, it is pointed out, he has taken specific objection regarding this point.

16. Under section 81(2)(a) of the R. P. Act an election petition is deemed to have been presented to the Election Commission when it is delivered to its Secretary or to such other officer as may be appointed by the Election Commission in this behalf. The endorsement on the front page of the election petition shows that it was presented to the aforesaid officer who is an Under Secretary of the Election Commission. From the order sheet of the Election Commission in connection with this petition it appears that the first order dated 24th April 1964 is of the above Under Secretary where he has noted the fact of its presentation in person by the petitioner Sri Sheel Bhadra Yajee on 24th April 1964. The next order dated 29th April 1964 is of the Chief Election Commissioner whereunder he has directed its copy to be published in the Gazette of India and also to be served by post on each of the respondents. In this order he has further endorsed that he had read the election petition. The next order dated 4th May 1964 shows that the copy of the petition had been sent for publication in the India Gazette and also that the copy been served by post on each of the respondents. The next order dated 6th May 1964 which is of the Chief Election Commissioner mentions about the constitution of this Tribunal for the trial of the petition at Patna. In this very order, he has forwarded the election petition in original to the Tribunal for trial fixing 25th May 1964 as the date for first appearance of the parties before the Tribunal and they were to be noticed accordingly. The next order dated 11th May 1964 will show that the notices were also issued to the petitioner and the respondents regarding constitution of the Tribunal and the place of trial, and the election petition in original was despatched to the Tribunal on that date. Thereafter it was duly received here along with other papers and the necessary further steps were taken by the Tribunal regarding its trial.

17. From the above facts it will thus appear that consequent upon the presentation of the election petition before the aforesaid Under Secretary he duly received it and it was registered and acted upon by the Election Commission so that the respondents were noticed, necessary Gazette publication was made and Tribunal was constituted to try the petition. Under section 85 of the R. P. Act, 1951, it is enjoined upon the Commission to dismiss an election petition if the provisions of section 81 have not been complied with. As shown above, one of the provisions of section 81 is that the election petition is to be delivered to the Secretary of the Commission or such other officer as may be appointed by it in this behalf. It has also been shown that the election petition was presented to the Under Secretary of the Commission. Having regard to these facts, one can reasonably expect that the Commission would have dismissed the election petition as required by section 85 if it was not delivered to a duly authorised person in this behalf. In other words, it would have dismissed it if the Under Secretary to whom it was presented had no authority to receive it. From the facts referred to above with reference to the ordersheet of the Election Commission, it is, however, clear that the Commission not only entertained it after its receipt by the Under Secretary but also acted upon it so as to take the necessary preliminary steps regarding the issue and publication of notices and also constitution of the Tribunal. These actions on the part of the Commission reasonably point out to the existence of the necessary authority in the Under Secretary to receive the petition.

18. In the above referred to paragraph 8 of the respondent No. 1's written statement where his defence with regard to this point is said to have been raised, it has not been specifically alleged that the Under Secretary before whom this election

petition was presented was not clothed with the authority to receive it. All that has been said is in general term that it was not properly presented to the Election Commission. Moreover no evidence whatsoever has been adduced by the respondent in support of this contention. Even respondent No. 1 has not said a word in his long and elaborate evidence in court challenging his authority to receive it. No doubt, the petitioner has not also led any evidence including his own statement to prove presence of such power in him (Under Secretary). But that by itself cannot be sufficient to enable the Tribunal to uphold the respondent's contention in this behalf. It may be that the petitioner did not think it necessary to lead evidence to prove this authority as it was not categorically denied by the respondent in any of his two written statements. It will be worth-while to mention here that before the commencement of the regular trial of the election petition, a prayer was made on behalf of this respondent to hear his preliminary objections against the maintainability of the election petition and dismiss it *in limine*. The petitioner also agreed to this proposal, and accordingly both sides were heard about those preliminary objections on 17th August 1964. They were, however, overruled by the Tribunal in its order dated 29th August 1964 and the election petition was held to be maintainable, which order of the Tribunal was upheld before the Hon'ble High Court in M.J.C. 1183 of 1964 which was dismissed summarily. On that occasion, in course of the arguments advanced on behalf of the respondent No. 1 the maintainability of the election petition was challenged only on four grounds which related to the defect in verification of the schedules enclosed to the petition, non-inclusion of the particulars of the alleged corrupt practice in the petition, defect in the copy of the petition served on respondent No. 1 and mistake in the authority to which the election petition was addressed. Nothing was urged regarding the present alleged defect concerning want of authority in the Under Secretary to entertain the election petition. It has been submitted on behalf of the respondent that the lacuna regarding absence of authority in the Under Secretary is a fundamental defect which cuts at the very root of its maintainability by him and as such even though it was not raised when his aforesaid preliminary objections were being heard that did not matter, and the election petition has got to be thrown out now when this fact has been brought to the notice of the Tribunal, on account of this vital defect. On the face of it, there may be no disagreement with this stand of the respondent. But this much is quite evident that no such contention was raised at that time, even though of the objections urged attacking its maintainability some specifically related to certain provisions of this section 81. Had it been so, the petitioner might have thought of controverting it by producing evidence to prove the authority of this officer to receive it. In the face of such silence of the respondent on that occasion when the point of maintainability on other grounds of such preliminary nature was pointedly agitated, and also when this allegation has not been specifically made in either of the written statements filed by respondent No. 1, the petitioner could reasonably presume presence of this authority in him so as not to try to bring forth evidence to specifically prove its existence.

19. For these reasons, I am unable to find any substance in this contention of the respondent and, accordingly over-rule it. This issue, in the circumstances, is answered in the affirmative.

20. **Issue No. 2.**—The only Point addressed to the Tribunal in favour of this issue is that the recriminatory petition filed under section 97 of the R. P. Act, 1951, is barred by limitation having been filed beyond the prescribed period. According to petitioner's learned Counsel, this should have been filed latest by 8-6-1964 but was actually filed on 9th June 1964 which was obviously beyond time. In this connection he had drawn my attention to paragraph 2 of his reply to the recriminatory petition where it has been specifically alleged that it (recriminatory petition) is barred by limitation since it was filed not within time.

21. While dealing with issue no. 1 above, I have observed the election petition was presented on 24th April 1964 and the Chief Election Commissioner in his order dated 6th May 1964 fixed 25th May 1964 as the date for first appearance of the parties before the Tribunal and they were noticed accordingly. From the notice dated 11th May 1964 issued by the Election Commission under registered cover to this respondent no. 1 it will appear that he was asked to appear before this Tribunal on or before 25th May, 1964 failing which the Tribunal might proceed with the trial *ex-parte* in his absence. On this date i.e. 25th May 1964 this respondent appeared before the Tribunal and filed a petition with his **vakalatnama** requesting it to allow him two months' time to file his written statement which was allowed till 13th June 1964. So this date (25th May 1964) is to be regarded as the date of commencement of this trial. Under the provisions of section 97 he was to file this recriminatory petition within 14 days from the date of the commencement of the trial. On calculation this period of 14 days was to expire on 8th June 1964. This is based on the assumption that the first

date i.e. 25th May 1964 is to be excluded from the reckoning. Even if this is not done then the prescribed period was to end on 7th June 1964 which was, however, a Sunday. The next date i.e. 8th June 1964, though not a holiday in the holiday calendar as originally settled, was subsequently declared to be a public holiday for all the Central and State Government offices including the courts on account of the immersion ceremony of the ashes of our late Prime Minister Pandit Jawahar Lal Nehru. As the courts and offices of the Tribunal were closed on both these days i.e. 7th and 8th June, 1964 due to holidays, it could not entertain any recriminatory petition on either of them. The present recriminatory petition was however filed on the next open day i.e. 9th June 1964. In such circumstances it has to be treated to be within time. Regard being had to these facts, this issue is decided in the affirmative.

22. *Issue no. 7.*—In course of his arguments learned Counsel for the petitioner gave out that he would not press this issue (*vide* Tribunal's ordersheet no. 108 dated 28th April 1965). In these circumstances, it is decided in the negative.

23. *Issue no. 8.*—Regarding this issue, the only point on which learned Counsel of respondent no. 1 has addressed the Tribunal in course of his arguments is concerning the allegation of undue influence on the voters. The respondent's case in this behalf are contained in paragraphs 9 and 10 of his recriminatory petition. In paragraph 9, his allegation is that the petitioner, his election agent Ramjatan Singh and his worker Krishna Sharan Malhotra (with consent of the petitioner and his election agent) appealed to the voters to give first preference vote to him (petitioner) on the ground of his caste and community and thereby committed corrupt practice under section 123(3) of the R.P. Act, whose particulars are detailed in annexure I of the recriminatory petition. In paragraph 10, it has been said that the above 3 namely, the petitioner, his election agent and his worker with their consent had exercised undue influence on voters to give first preference vote to him and in furtherance thereof had obtained their signatures, whose particulars are set out in annexure II of the recriminatory petition, and thereby committed corrupt practice under section 123(2). From these facts it is therefore clear that these allegations are specifically directed against only three persons, namely, the petitioner, his election agent and worker. The petitioner has, however, denied to have any connection with this Krishna Sharan Malhotra who, according to him was never his worker or anything in this election. His assertion is that he does not even know him and that he is a man of his (respondent's) camp so that he has introduced him in the case to gain advantage out of it. No evidence worth the name has been adduced by the respondent to disprove the assertions so made by the petitioner regarding this Malhotra.

24. It may be relevant to mention here that the petitioner closed his evidence after examining P.W. 22 but reserved his right to adduce further evidence if so required after respondent no. 1 has produced his evidence with regard to his case in the recriminatory petition (*vide* ordersheet no. 77 dated 16th February 1965). In course of his (respondent no. 1) evidence he did not, however, lead any evidence to substantiate the allegations made in the recriminatory petition. On the other hand, his Counsel clearly gave out that he did not like to adduce evidence on these points so that the other side should have no necessity to produce his evidence to rebut them for doing which he has reserved his right. It was in this context that when the evidence of respondent no. 1 was also closed and the parties were to bring their arguments, petitioner's Counsel disclosed that he did not propose to adduce his evidence in connection with the allegations in the recriminatory petition when the respondent himself had not led any evidence in proof thereof, because his further evidence if any in this connection was by way of rebuttal of the respondent's evidence about this point (*vide* ordersheet no. 102 dated 21st April 1965).

25. Before arguments in the case were begun, learned Counsel for respondent No. 1 however came out with the plea that even though he had not led evidence in support of the aforesaid allegations made in the recriminatory petition it was open to him to make his submissions in this behalf on the relevant admissions made in the evidence of certain witnesses of the petitioner because those admissions themselves prove beyond every controversy the exercise of undue influence on the voters by and on behalf of the petitioner. Learned Counsel for the petitioner, however, objected to this course adopted by the other side on the ground that if he had such a plan in mind he should have disclosed it earlier because in that case he (petitioner) would have been in a position to produce evidence to rebut the facts that are sought to be deduced from those so-called admissions of his witnesses which opportunity is not available to him at this

belated stage. I feel that in all fairness the respondent should have disclosed his such plan before the Tribunal at the appropriate time which was when his (respondent) evidence came to a close, because that was the time when the petitioner's evidence if any in this connection would have been given about which he had reserved his right earlier. But nothing like this was brought to light and the inevitable result of it was that he (petitioner) did not choose to adduce any evidence in this regard because he was right in thinking then that the respondent did not mean to press these allegations against him in consideration of the fact that he had not thought of leading evidence to substantiate them. These controversies between the two sides would not however appear to be of much consequence in as much as the petitioner's Counsel has advanced his arguments in detail in reply to the submissions made by respondent's Counsel on the strength of such admissions.

26. It has been urged on behalf of the respondent that a perusal of the contents of paragraphs 13 and 14 of the election petition read with answers elicited in the evidence of P.W. 2 (Ram Narain Chaudhary, M.L.A.), P.W. 6 (Gaurishankar Das, office Secretary of the Bihar Provincial Congress Committee), P.W. 7 (Syed Mostaque Ahmad, M.L.A.), P.W. 13 (Sakoor Ahmad who was then Chief Whip of the Bihar Congress Legislature party), P.W. 20 (Ram Jatan Singh M.L.A.) and P.W. 21 (petitioner) will unmistakably show that undue influence was exercised on the M.L.A. voters belonging to the Congress party which clearly attracted the provisions of section 123(2) of the R.P. Act, 1951, so as to constitute corrupt practice in respect of these voters. In this connection a reference has also been made in his behalf to the petitioner's documents Exts. 2(a) to 2(f) each of which, according to the petitioner's own case, contain the names of the group of 34 M.L.As. who were respectively attached to the six Congress candidates for casting their votes to them. He has also referred to item (vii) (c) of the petition dated 24th September, 1964 of the petitioner in which he has called for certain documents in this case. This item is in respect of the document showing acceptance by particular M.L.As. as per directions.

27. According to section 123(2) of the R.P. Act, undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right is to be deemed to be a corrupt practice.

28. Under its proviso (a) (i), any such person who threatens any candidate or any elector, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

29. Relying upon these provisions of law it has been submitted for respondent No. 1 that the above referred to answers in the evidence of the P.Ws. concerned read with the above documents Exts. 2(a) to 2(f) will prove beyond every doubt that congress voters concerned had been coerced by the leader of the Congress Legislature party and also Chief Whip of that party to cast their votes only in favour of the congress candidates and none else, on pain of disciplinary action including expulsion from the party if they failed to follow that mandate. In this connection it has been further urged that though the party leader and the Chief Whip were not themselves either candidate or electors but they were actively in the field furthering the prospects of this petitioner and other congress candidates who had all consented to their such services and as such they (Leader and Chief Whip) were not themselves either candidate or electors but they were actively in upon the authority in *Nani Gopal Swami vrs. Abdul Hamid Choudhury* and another (19 Election Law Reports 175). He went further to say that in the given context the Congress party itself and all its prominent members were nothing but agents of its candidates as held in *Rajendra Pd. Yadav vrs. Suresh Chandra Misra* (11 E.L.R. 222) and *Triloki Singh vrs. Shivrajvati Nehru* and others (16 E.L.R. 234), and in view of their such position vis-a-vis the candidates the latter was to be held as bound by their actions in this behalf which obviously constituted coercion and undue influence cast on the electors.

30. As observed above, in the recriminatory petition allegation of undue influence has been made only against the petitioner, his election agent Ramjatan Singh and worker Krishna Sharan Malhotra about whom petitioner has denied to have any connection much less utilising his services as his agent or worker and it has not been proved to be otherwise by the respondent. No such allegation has been made, even remotely, against the leader or Chief Whip of the Congress Legislature Party in the recriminatory petition. In paragraph 13 of

the election petition it has been said that the Congress party having strength of 205 M.L.As. in the House had set up six candidates to contest this election so that all of them could be elected without any doubt by first preference vote. In paragraph 14 his case is that the Congress divided its votes in six groups and necessary mandate was given to each group of voters to vote for a particular candidate with first preference and their signatures were also obtained earlier to the poll. Exts. 2(a) to 2(f) have been proved to be the list of these six groups of 34 each as prepared by the leader of the Congress Legislature Party. They contained the names of different congress M.L.As. who were arranged to vote for the particular congress candidate according to the party arrangement. The Chief Whip Sri Sakoor Ahmad (P.W. 13) has said that in fixing up these allotments of congress M.L.A. voters congress candidates concerned have no hand and they are fixed up by the Congress Legislature party leader, the Chief Whip and other executives. He has further said that in this election no mandate was issued by him or the party leader but they had made strong request and had issued urgent whip, which is called three line whip, about this matter and that after the issue of such strong request and most urgent whip he did not consider that the members were free to vote as they liked because the party discipline required that they should vote according to the whip issued. His further statement is that most of the M.L.As. knew the consequences for discarding this most urgent whip and strong request which are disciplinary action, suspension or expulsion from the party, asking explanations or refusal to get congress tickets in the next election. Ram Narain Chaudhary, M.L.A. (P.W. 2) has said that if a member of the Congress Legislature party in the State does not follow the party mandate he would be expelled from the party if the charge is proved against him. His further statement is that as public worker he knew that if the discipline of the party is not adhered to and his charge is proved than as consequence thereof one would have to face disciplinary action like expulsion; after receiving the direction of the Chief Whip in this election he considered himself morally bound to vote for the particular candidate as requested by the Chief Whip though in spite of their directions he considered himself free to vote for any other candidate but as a conscientious worker he considered himself morally bound to vote for the congress according to that direction. The Congress Office Secretary Gaurishanker Das (P.W. 6) has said that on every Congress M.L.A. it is obligatory that he would adhere to the Congress ideology and would never act in any manner prejudicial to the interest of the Congress and if the allegation against any Congress M.L.A. regarding his having worked against Congress interest is found proved disciplinary action is taken against him. He has further said that in this election though no mandate or direction was issued by the Congress Legislature party leader or the Chief Whip but they had been requested to vote for particular Congress candidates and it was hoped that they would vote accordingly and if any one voted against that and he is proved to have done so then disciplinary action which consists of warning, suspension, expulsion or prohibition from holding any elective post for a specified period would be taken against him. Mostaque Ahmed M.L.A. (P.W. 7) has said that from time to time the leader of the Congress Legislature party issued directions to Congress M.L.As. to act in a particular manner and in case they are found to have flouted any such direction they would be liable to party disciplinary action in which a member may be expelled from the party or debarred from holding any elective post. His further statement is that in this election he had got direction from his party's Chief Whip to vote for Chaudhary A. Mohd. to whose quota he was allotted. Ramjatan Singh (P.W. 20) has said that no doubt different congress M.L.As. were free to exercise their franchise in this election but were bound to cast their votes in favour of only Congress candidates because for doing otherwise they were liable to be expelled from the party. The petitioner (P.W. 21) has said that by the word mandate used in paragraph 14 of his election petition is meant three line whip which are considered as mandate of the party and in the Congress party punishment is given to the person disobeying such mandate. As it will appear from the answers elicited in cross-examination of the above P.Ws. 6, 7, 13 and 21, candidates concerned had no hand in preparation of the lists [Exts. 2(a) to 2(f)] and they were settled by the leader and Chief Whip of the Congress Legislature party without consulting them because such consultation or consent is not necessary. According to P.W. 7 their signatures were obtained on these lists to ensure that they had been informed of their such grouping in favour of the different congress candidates. Similarly P.W. 6 has said that every Congress M.L.A. was made to sign against his name on these lists to show that he had been apprised of the fact regarding his casting of first preference vote in favour of a particular congress candidate. This negatives the respondent's contention urged before me that these signatures were obtained on the lists by way of clear acceptance of the obligation of these Congress M.L.As.

binding them down to cast their votes in favour of those very candidates and none else otherwise they were to be penalised by expulsion or some such thing. My considered views about the above fixation of lists with mandate, whip or direction, by whatever name it may be called, to vote for a particular candidate as settled by the leader and Chief Whip of the Congress Legislature party are that it was purely an internal party arrangement which it was always open to them to do to preserve the party discipline and cohesion and cannot amount to exercise of undue influence within the meaning of section 123. In a parliamentary democracy, election is fought mostly on party lines in which each party sets up his own candidates and after being elected they are to adhere to the party ideology and discipline. So, it should always be open to their leader and Chief Whip, whom they voluntarily elect, to guide them on such occasions by issuing necessary instructions within the party. Unless these basis facts are acceded in favour of the parties participating in the elections on party lines, and if it that the party leader or the Chief Whip, as the case may be, has no right to make such arrangements within the party concerned to achieve success for the party candidate or candidates, this will in effect amount to negation of the election on party lines which is the very foundation of parliamentary democracy which system has been adopted in our Constitution. The consequences of disciplinary action including expulsion from the Congress party for acting against party whip or mandate cannot, I think, be regarded as coercion or undue influence cast on those M.L.As. in exercise of their free voting right, because such consequences are necessary not only for safeguarding the interest of the party but for its very existence and upkeep. Unless the party leader and Chief Whip, who are voluntarily elected by the constituents concerned viz. party M.L.As., are clothed with the power of issuing such mandate or direction and the party is empowered to punish the members violating it by taking disciplinary action including expulsion from the party against the defaulter, the party cohesion is bound to suffer serious set back which may ultimately result in its extinction. To such an arrangement, if and when necessary, for the sake of the party's interest the members can well be deemed to have accorded their free and voluntary consent at the time of joining it and also subsequently so long as he wants to continue in it. I think such rights of the party and the persons in charge of its affairs to regulate the conduct and actions of its members by issuing such directions as and when required is well recognised throughout where parliamentary democracy based on party lines election exists. In 1950 Edition (Volumes I and II) at page 376 of the Indian Election Cases (1935 to 1950) by H. S. Doabia there is reference to an election case relating to Bengal Legislative Council in which the mandate or whip issued by the Chief Minister as leader of the party was considered in the form of request to the members to cast their preference for the candidates named and the contention that this was an instance of improper use of his influence, and powers as a Minister to vote for a particular candidate were negated. No doubt, the circumstances in which that mandate or whip was issued by the Chief Minister in that case did not tally in toto with the circumstances obtaining in the present case on this point. But all the same, this decision seems to be an authority regarding the general view that such a mandate or whip by the party leader to the members of the party is permissible and does not necessarily constitute exercise of undue influence on them.

31. Having regard to the above viewpoints regarding this matter, the question of the Congress party or the Leader and Chief Whip of the Congress Legislature party acting as agents of the petitioner and other congress candidates in their above actions of grouping and preparing lists of the M.L.As. concerned advising in which way they should vote whose violation was likely to be penalised by disciplinary action in the party is not so material because as I have held above they (Leader and the Chief Whip) were fully entitled to make these arrangements within the party in its interest. As it has been observed above there are evidence to show that in formulating these groups and lists the Congress candidates concerned had no hand, nor they were consulted or their consent obtained as it was not necessary.

32. On the above material, I therefore hold that the allegation in the recri-minatory petition regarding the exercise of undue influence by the petitioner, his election agent and worker, for the matter of that any one on his behalf with their consent has not at all been substantiated. So far as other allegations in this petition are concerned, I have already shown above that no evidence whatever has been led by respondent No. 1 to substantiate them. Even respondent No. 1 (R.W. 13) has not said a word about them in his evidence. For these reasons, I find no merit in any of these allegations and they are accordingly negated. In this view of the

matter, the first part of this issue (No. 8) is answered in the negative. When this is so, the question of these allegations affecting the claim of the petitioner for being declared duly elected in the Rajya Sabha does not arise, and the second part of the issue relating to this matter is disposed of accordingly.

33. Issue no. 5.—In support of the petitioner's case involved in this issue, petitioner's Counsel has placed reliance on the evidence of Ramjatan Singh M.L.A. (P.W. 20) who was admittedly the petitioner's Election Agent in this election. In this connection he has referred to his (P.W. 30) statement where he has said that he was present when the ballot papers cast in this election were being scrutinised and counted and in the scrutiny there was irregularity consisting of counting of some votes fit to be rejected in favour of Jain Saheb, as for example, some votes in which two first preferences were given in favour of two persons including Jain Saheb were counted in his (Jain) favour, a few votes in which besides first preference expressed in favour of Jain Saheb some other writings were also made in that column which made them fit to be rejected were counted in his (Jain) favour, in one or two ballots 9 or 10 preferences instead of 8 were expressed but they were also counted in favour of Jain Saheb instead of being rejected. He (P.W. 20) has further stated that though he cannot exactly say their numbers but 8 to 10 ballots which were fit to be rejected were counted in favour of Jain Saheb. All the 30 first preference votes secured by respondent No. 1 R. P. Jain have been put in evidence and marked Exts. 11 to 11 (23). Among these ballot papers petitioner's Counsel has invited my attention to only 9 i.e. Exts. 11(a), 11(c), 11(d), 11(j), 11(s), 11(w), 11(x), 11(z) and 11(z2) scrutiny of which, according to him, will prove the truth of the above statement of P.W. 20 to show that they were fit to be rejected, but had been wrongly counted in favour of R. P. Jain.

34. It may be stated that during the scrutiny of the ballot papers the Returning Officer had rejected only 4 which have also been brought on the record and marked as Exts. 10, 10(a), 10(b) and C. Reasons for rejection appears to have been endorsed on them per pen of the Returning Officer. The grounds on which ballot paper during scrutiny is to be invalidated by the Returning Officer are set out in rule 73(2) of the Conduct of Election Rules, 1961, which appear to be exhaustive.

35. An examination of these nine ballot papers as referred to by the petitioner does not, however, show that all or any of them are fit to be rejected but have been wrongly counted in favour of R. P. Jain. Ext. 11(a) is said to be invalid on the ground that 11 preferences have been given in it though there were only 8 vacancies. No doubt, it contains 11 preferences one being given against each of the 11 candidates whose names are printed on it. Rule 73(2) *ibid* does, not, however, make a ballot paper invalid on this score. So there was no valid reason for the Returning Officer to reject it. As such its first preference in favour of R. P. Jain has been rightly counted for him. In Ext. 11(c) it has been pointed out that first preference has been expressed in favour of two persons, namely, R. P. Jain and Anand Chand. This does not, however, appear to be so. There is hardly any scope to read the preference against Anand Chand as the first preference. This is clearly second preference which can easily be found out by comparing it with the first preference recorded against R. P. Jain. On looking into these two preferences learned Counsel for the petitioner also conceded that he would not stick to his stand that the preference given against Anand Chand is first preference and not the second preference because the latter view is also possible by this preference as it has been written. As regards 11(d) the contention of the petitioner is that the first preference expressed against R. P. Jain reads like question mark and should not therefore have been counted as first preference in his favour. I am unable to subscribe to this view. As it is written, this has to be read as figure '1' and not as a question mark. In this election where was the question of putting a question mark against the name of any candidate by any of the voters who were required to express their preferences in favour of the candidates in their ballot papers. Moreover, petitioner's above witness (P.W. 20) seems to be his only witness on this point has not given out that one of the irregularities was regarding the presence of question mark against R. P. Jain which was counted as his first preference. In Ext. 11(j) it has been said that there is an over-writing in the first preference expressed in favour of R. P. Jain and as such it should have been invalidated. As will appear from rule 73 mere over-writing on the preference expressed does not invalidate the ballot. As a perusal of this ballot shows the first preference given to R. P. Jain is quite clear and decipherable and there can be no question of declaring it invalid merely because on the figure '1' against the name of R. P. Jain there seems writing over

again which might have been with a view to make it more clear as the previous writing might have been somewhat faint. In Ext. 11 (s) it is said that the figure written against R. P. Jain is actually '9' and not '1'. There is, however, no data to infer like this. This ballot paper is of Jhaneshwar Ghose, M.L.A. who has been elected to the Bihar Assembly as independent candidate. In this ballot, only one preference has been expressed and it is in favour of R. P. Jain who was admittedly an independent candidate. It is not understandable how the voter would have started with the 9th preference so as to give it to R. P. Jain if the petitioner's contention that it is actually '9' and not '1' is to be accepted. The arguments that it is actually '9' is also negated by the presence of hook like writing at its bottom, because in the English figure '9' there is no such hook. In Ext. 11(w) it is said that first preference has been given to two candidates, namely, R. P. Jain and Brij Kishore Pd. Singh. This is, however, not so. A look at the two figures inserted against the names of these two candidates will clearly show that the preference against R. P. Jain is '1' and against Brij Kishore Pd. Singh is '7'. Both these figures are in Hindi and substantially differ from each other in their shape. In other words, there is clear-cut dissimilarity between the two. If preference against Brij Kishore Pd. Singh was also one as urged, then it would have been similar to the figure '1' as given against R. P. Jain. In common use of Hindi numbers "7" is also written as it finds place against the name of Brij Kishore Pd. Singh. On these two figures as they stand, there can be no doubt that the preference against Jain is the first preference and that against Brij Kishore Pd. Singh is 7th preference. About 11(x) it is submitted that besides the figure '1' some other figure is also inserted in the column against the name of R. P. Jain and as such this ballot is invalid according to the above rule 73(2)(c). This contention does not, however, appear to be correct. Figure 1 is clearly written against R. P. Jain. The other mark in this column is not at all a figure. On the other hand, this appears to be just a mark which came into existence on this paper when it was folded due to undried condition of the figure '1' which point is crystal clear on looking into it closely. Regarding Ext. 11(z), it is said that first preference has been expressed against, two candidates, namely, R. P. Jain and Jahanara. This also appears to be wrong. The mark against the name of Jahanara clearly appears to be an ink impression of the figure '1' noted against the name of R. P. Jain and this impression must have come into being after folding of the ballot paper because the ink of the figure '1' had not till then fully dried up. If the voter intended to give first preference to Jahanara also there was no sense in his trying to write figure '1' in an inverted form as it appears in the ballot against her name. He could have well written this figure in the usual form as he had done in the case of R. P. Jain. So petitioner's contention in this behalf cannot prevail. Coming to the last ballot i.e. Ext. 11(z2) it has been urged by the petitioner that in this ballot first preference has been expressed both in favour of R. P. Jain and Sheel Bhadra Yajee and as such it is invalid under rule 73(2)(b). I am, however, unable to uphold this point. As the two figures stand they are to be read as '1' against R. P. Jain and '2' against Sheel Bhadra Yajee. If the voter meant to give first preference to Yajee also his figure '1' against his name would not have materially differed in shape from his '1' assigned against R. P. Jain x2. The two are clearly distinguishable and the one against Yajee has been rightly read as '2' and against Jain '1'.

36. As a result of the above discussions it will thus be clear that there was nothing wrong in the scrutiny and counting of the aforesaid 9 ballot papers in favour of R. P. Jain. As I have observed above, these were the only 9 ballot papers to which my attention was drawn on behalf of the petitioner to prove his case in this behalf. His counsel did not point out to any of the remaining first preference votes (Ext. 11 series) of respondent No. 1 to show that there has been any irregularity in its scrutiny and counting so, on the facts disclosed by examination of these 9 ballots of respondent No. 1 it is, manifest that the above statement of P.W. 20 (Ram Jatan Singh) that 8 to 10 invalid votes fit to be rejected were counted in his (respondent No. 1) favour is not correct. It has been urged on behalf of the petitioner that a close look into these nine ballots would show that doubtless there was bonafide scope, might be erroneously, for him (P.W. 20) to entertain an impression about their defective nature specially when their scrutiny and counting must have taken place in a hurried and tense atmosphere, and as such his (P.W. 30) telling the Tribunal that they were really fit to be rejected but were wrongly counted for the respondent cannot be said to be a deliberate falsehood uttered in court to create a situation to open and inspect the ballot papers as alleged by the respondent's Counsel. I do not think it necessary to probe into the question whether this statement of his is based on some erroneous impression which had been created in his mind about them in the

given situation, or he has introduced it purposely in his evidence to serve petitioner's and, because whatever may be the fact in this regard it is quite clear from their examination as discussed above that they do not suffer from some such or any defect, and have been correctly counted in favour of the respondent. Regard being had to these findings, this issue is, therefore, decided against the petitioner.

37. *Issue Nos. 3 and 4.*—Both these issues are inter-connected. It would be therefore convenient to deal with them together.

38. To recapitulate, the petitioner's case in this regard is to be found in paragraphs 21-22 read with schedules I and II of the election petition. His definite case is that respondent No. 1, his election agent and his worker with their consent had bribed voters belonging to the petitioner and other candidates and secured their votes of first preference in his (respondent) favour, the particulars whereof are given in schedule I; they (respondent No. 1, his election agent and worker) had also offered and promised to offer bribe to several voters including that of the petitioner for the purpose of obtaining their votes whose details are set out in schedule II. In schedule I, at the time of filing of the election petition which was done on 24th April 1964, names of only 5 M.L.As. were mentioned. Similarly, he had mentioned the names of only 5 M.L.As. in schedule II at the time filing the election petition. Subsequently on 1st October 1964, the petitioner moved the Tribunal to amend these two schedules by adding a few more names in each. Parties were accordingly heard regarding these amendments and his prayer in this behalf was allowed on 18th November 1964 (hearing of this case began on 28th November 1964). Resultant to the amendments, names of three M.L.As. were added in schedule I, and 5 in schedule II. So, as the case of the petitioner at present is respondent No. 1 and his men had bribed 8 M.L.As. as named in schedule I, and had offered and promised to offer bribe to 10 M.L.As. mentioned schedule II. During evidence in court, on behalf of the petitioner evidence has also been led to show that as soon as scrutiny and counting of the ballot papers during this election were over and the result announced, respondent No. 1 (R. P. Jain) came out of the counting room and was heard uttering that though 60 M.L.A. voters had accepted bribe for him to cast their votes in his favour but only 30 had voted for him and there were all dishonest. To introduction of such case for the first time during evidence was objected to by the other side on the ground that it was mandatory on the part of the petitioner to have set out this point with its full particulars as required under section 83 of the R. P. Act in the election petition itself. That being no done, evidence of the petitioner led to establish it was not admissible. I shall, however, go into this aspect of the matter when I deal with this question later on merit.

39. Before proceeding to examine the evidence and circumstances furnished by the parties in support of their respective cases with regard to these allegations of bribery etc. I should like to refer to certain rulings cited by the two sides to show as to on whom the onus for proving these allegations actually rests. According to the submissions of the respondent No. 1, it is by now settled in law that the charges of corrupt practice are criminal or quasicriminal in nature and the standard of proof required is standard applicable to criminal cases, i.e. the corrupt practice alleged must be proved beyond ever reasonable doubt and that the burden of proof in such cases is on the petitioner which never shifts. In support of this view, his Counsel has placed reliance upon the decision in *Gokulananda Praharaj v. Jogesh Chandra Raout* and another (18 E.L.R. 76); *Ahjad Ali v. Nazmul Haque* (21 E.L.R. 345); *Brij Bhushan* and another *v. Raja Anand Brahma Shah* and others (22 E.L.R. 225); *Jagdev Singh Sidhanti v. Pratap Singh Daulta* and other (A.I.R. 1965 Supreme Court 183). Again this, the stand of the petitioner is that though in cases with such allegations the onus primarily rests on the petitioner who makes them but it (onus) is not constant and it shifts on the other side as soon as he (petitioner) has been able to furnish materials worth reliance to give rise to bonafide belief that the votes secured by the other side could not be obtained by him except through some such unfair means. To support this view, he has referred to the provisions of sections 101 and 102 of the Indian Evidence Act, 1872. According to him, the burden of proof contemplated in section 101 which arises on the pleadings remains constant. But it shifts on the opponent as soon as the first side has been able to make out a *prima-facie* case before the court establishing certain facts which if unrebutted by giving evidence in rebuttal by him (opponent) would entail his failure in the case, and this is what contemplated by section 102. His submission further is that the petitioner has produced before the court evidence and circumstances of convincing nature to *prima-facie* prove that the votes

pocketed by the respondent were really his (petitioner) votes which should have normally gone in his favour unless he (respondent No. 1) had manoeuvred to secure them for himself by taking to such nefarious means and in this view of the matter, the onus to explain the fact about his having got them in the usual course and not by resorting to corrupt practice lay upon him (respondent) because if he did not adduce evidence to explain it satisfactorily the case in this regard has necessarily to be decided against him (respondent No. 1). In this connection his Counsel has also placed reliance in the rulings reported in 22 E.L.R. 261 (T. K. Gangi Reddy v. M. C. Anjaneya Reddy and others); 16 E.L.R. 234 (Triloki Singh v. Shivrati Nehru and others); 4 E.L.R. 73 (Sudhansu Sekhar Ghosh v. Satyendra Nath); 3 E.L.R. 197 (T. C. Basappa v. T. Nagappa and others).

40. A perusal of all these authorities show that they generally support the views respectively propounded by the parties. But as it appears to me, this question of onus is not of much material consequence because both sides have adduced elaborate evidence in the case to substantiate their respective cases in the pleadings. They have also relied upon circumstances and probabilities in the case in support of their respective claims. In such a situation, the court has necessarily to scrutinise all of them in detail to find out where the truth lies. As such the question on whom the onus really rests to prove this or that fact becomes more or less academic and is not of much value. In support of this view, I would like to refer to the cases of Abdul Jalil Choudhury v. Rathindra Nath Sen A.I.R. 1958 Assam 51 and Khubchand Baghat son of Indewan Singh appellant v. Vidyacharan Shukla son of Ravi Shankar Shukla and others, respondents (A.I.R. 1963 Madhya Pradesh 306). In such circumstances, no undue importance can be attached to the question of onus because the truth of otherwise of the parties' claim will necessarily have to be determined on the strength of their evidence coupled with the circumstances and probabilities in the case.

41. There seems no difference between the parties on the following facts. This election was a biennial election to elect candidates to fill up the 8 vacancies that had occurred in the Parliament (Rajya Sabha). The candidates were to be elected by members of the Bihar Legislative Assembly. The Election Commission had fixed the filing of nomination papers between 4th March 1964 to 11th March 1964 and they were to be scrutinised on 13th March 1964 and withdrawal if any was to be done by 16th March 1964. 13 candidates filed their nomination papers of whom 2, namely, respondent Nos. 11 and 12 withdrew their candidature subsequently and thus there were only 11 contesting candidates in the field. Of these 11 candidates, six including this petitioner belonged to the Congress party, one to Praja Socialist party, two to Swatantra party, and two including this respondent No. 1 were independents. Among these contesting candidates, one of the Congress, namely, this petitioner, one of the Swatantra party (respondent No. 10) and one independent (respondent No. 9) got defeated and the rest were elected. It is also not disputed that quota for the success of the candidate in this election was 34 first preference votes. The poll took place on 26th March 1964 and the counting and scrutiny were done the same day and the result was also declared on that date, and that in the first counting the first preference votes secured by respondent No. 1 and the petitioner were 30 and 24, and in the final counting they were 33-89 and 27-10 respectively.

42. In paragraph 9 of the election petition the petitioner has given the party-wise break up of the M.L.As. in the Bihar Legislative Assembly, according to which out of its 318 members 205 are of the Congress, 47 of Swatantra, 30 of Praja Socialist Party, 7 Socialist Party, 12 Communist party, 4 Jan Sangh and the rest independents. In the relevant paragraph 19 of his (respondent No. 1) written statement which is on affidavit the respondent No. 1 has denied this averment of the petitioner alleging that there is no list in the Assembly to show which member of it owes allegiance or belongs to which political party or what is the strength of any political party therein. The petitioner has, however, produced an authoritative list (Ext. 3) maintained by the Assembly in this behalf. This document clearly supports the petitioner's case in this regard. It shows that out of 319 members including one nominated 204 (excluding Speaker) are of the Congress, 47 Swatantra party, 29 Praja Socialist party, 12 Communist party, 12 independents and the rest of other parties. Besides this document, his case about this matter is also supported by his witness P.W. 13 (Sakoor Ahmad), P.W. 15 (Prabhat Kumar Adityadeo who is an M.L.A. of the Swatantra Party), P.W. 20 (Ramjatan Singh) and the petitioner himself (P.W. 21). This is also supported by the respondent No. 1's witness R.W. 2 (Mangal Pd. Yadav). Respondent No. 1 (R.W. 13) has also admitted in his evidence in court that he has now learnt that the number of congress M.L.As in the Assembly is 205.

43. In paragraphs 13 and 14 of the election petition, the petitioner has specially made out a case that the Congress party on the basis of the strength of 204 members (excluding the Speaker) had set up 6 candidates so that all of them may be elected by first preference votes without any doubt and that they had divided their voters in six groups to whom necessary mandate was issued to vote for a particular candidate with first preference. In paragraphs 18 and 22 of his written statements, respondent No. 1 has denied these averments of the petitioner asserting that to his knowledge other candidates in the election did not owe any allegiance to any political party nor they were contesting it on behalf of this or that political party and that the Congress party had not set up any candidate. According to petitioner's Counsel such blatant denial of the respondent of even these patent and basic facts of which he must be deemed to be fully aware having been in the election field as a candidate is a sure pointer to the fact that he is out to deny and suppress the truth to the best of his capacity. As it seems, there is no strength in this denial of the respondent because the petitioner's case in this behalf is fully proved by evidence of cogent and unimpeachable nature.

44. The letter dated 25th February, 1964 (Ext. 1) from the General Secretary of the All India Congress Committee addressed to the President of the Bihar Pradesh Congress *Ad hoc* Committee shows that the Central Parliamentary Board had approved the names of six candidates including this petitioner as the persons who were to be set up on their behalf to contest this biennial Rajya Sabha election. On the basis of this letter, the State Congress Committee informed these candidates about this decision in its letter [Ext 1(a)] asking them to file their nomination papers and take other necessary steps in this behalf. The latter Ext. 2 dated 25th March 1964 from Sakoor Ahmad, M.L.A. (P.W. 13), who was then the Chief Whip of the Congress Legislature party, and its enclosures viz. the six lists Exts. 2(a) to 2(f) give the names of the groups of 34 congress M.L.As each who were allotted and attached to the different congress candidates to give their first performance votes to them. Of these Ext. 2(f) relates to this petitioner (Sheel Bhadra Yajee). From the evidence of the Office-Secretary of the Bihar Pradesh Congress Committee Gaurishanker Das (P.W. 6) and Chief Whip (P.W. 13) it will appear that these grouping were made by the leader of the Congress Legislature party Sri K. B. Sahay whose signatures is affixed to each of these lists. It further appears that the signatures of the different M.L.As. concerned were also obtained on these lists in proof of the fact that they had been apprised of those positions. This is also supported by the evidence of petitioner (P.W. 21). The factum regarding setting of six candidates by the Congress party in this election has also been admitted in the evidence of respondent's witness R.W. 2 (Nangal Pd. Yadav), R.W. 4 (Jadunandan Murmur) R.W. 8 (Chetu Ram) Prabhat Kumar Adityadeo, whose name finds place in the Swatantra Party M.L.As. in Ext. 3, has deposed that in this election his party had set up two candidates and had grouped its 47 M.L.As into two groups of 23 or 24 each and had issued instructions to them to cast their first and second preference votes in favour of these two candidates in rotation. The setting up of the two candidates by the Swatantra party and one candidate by the P.S.P. in this election has also been admitted by R.W. 2. (Mangal Pd. Yadav). On consideration of these evidence of reliable nature, there can be no manner of doubt to hold that in this election the different parties like Congress, Swatantra etc. had set up their candidates to contest it, as is the case of the petitioner. The evidence of all these witnesses and also that of P.W. 7 (Mostaque Ahmad, M.L.A.) go to prove that the Congress and other parties in setting up their candidates had issued mandate to their voters to cast their votes in favour of the respective party's candidates. It has also been proved that the Congress party had divided its 204 M.L.As. into six groups of 34 each as detailed in the lists [(Exts. 2(a) to 2(f)] to whom they had issued mandate for casting their votes in favour of the congress candidates.

45. It will be seen that this election differed from the ordinary election where general masses satisfying the condition of adult suffrage in the rural or urban areas came and cast their votes in favour of candidates of their choice taking part in the on behalf of this or that party or as independent. These voters do not necessarily belong to or owe allegiance to any particular political party. In this election, however, the matter was different in the sense that the voters were members of the Legislative Assembly who had mostly been elected to the Assembly on party basis owing allegiance to their respective parties. It has been urged by the petitioner's Counsel that regard being had to such composition of the Assembly House it was natural to expect the M.L.As. to cast their votes in favour of their party's candidates particularly when party's mandate had also been issued to them to act on that line. But when they are found to have voted not for their

party's candidate but for this respondent No. 1 who has no political or social background in the State where he was almost wholly stranger, then something fishy in the deal must necessarily be there. In this connection, he has also pointed out that the political stature of the petitioner was so high as compared to the respondent No. 1 that the latter could not even dream to score over him in this political fight covering election unless he (respondent) had adopted nefarious means of purchasing his (petitioner) votes.

46. The petitioner Sheel Bhadra Yajee hails from village Bukhtiarpur within the district of Patna (Bihar). At the time of this election he was a sitting member of the Rajya Sabha (*vide* P.Ws. 6 and 21). From the book entitled "Who's Who" (1962) as published by Rajya Sabha Secretariat, it appears that this petitioner knows 11 other Indian languages besides English and Hindi. He was imprisoned and detained nine times and remained as political prisoner in different jails of India for 7½ years in connection with the Indian National Congress Sessions since his college days; is one of the founders of the Congress Socialist party from which he resigned in 1939 due to serious ideological differences with its leadership and became a founder member of the All India Forward Block. He has been General Secretary and President of the Bihar Pradesh Forward Block and Deputy Chairman, Chairman and Secretary-General of the All India Forward Block for several years. He had resigned from the Congress with his party (Forward Block) in 1947 when his resolution for the acceptance of Socialism as the Congress creed was not adopted by the All India Congress Committee but re-elected in 1955 with his party when the Congress accepted Socialism as its objective. He is also on the Editorial Board of several journals. He has also been associated as one of the executives of several other political and labour organisations. He had been elected to the Rajya Sabha in April, 1957 and again re-elected in 1958. All these facts unmistakably prove that he is a veteran political and social worker and that his temporary disassociation with the Congress party in the past has been due to on the point of ideological difference which fact has also been supported on oath by him during his evidence in this court as P.W. 21.

47. Against the above attractive credentials of the petitioner, those of respondent no. 1 appear to be wholly unattractive. As respondent no. 1 (P.W. 13) has himself admitted, he has read only up to the second year of the Intermediate class. His further statement is that he at the time of this election was serving as paid employee in the capacity of Executive Chairman of four Cement companies, namely, Rohas Industries Ltd., Ashoka Cement Ltd., Sone Valley Portland Cement Ltd. and Jajpur Udogya Ltd. for which he was getting a total salary of Rs. 5000/- per month subject to income tax besides the usual bonus from each of them which did not exceed his 1½ months salary. According to him since August 1964 he is working as the Executive Director of New Delhi Office of Sahu Jain Services Ltd. as a paid employee on the same salary. If all these are to be believed, then at the time of this election he was nothing but a paid employee getting substantial salary of 4 companies three of whom are situated in Bihar and the one namely, Rajasthan Udogya Ltd. in Rajasthan. There is nothing to show that he had rendered any social or political work before that, or had in any way been associated with any political or social organisation in this State or elsewhere in the country. He (respondent No. 1) has himself admitted that he is not a member of any political party (*vide* R.W. 13). His further admission is that excepting independent group no political party as such was supporting his candidature in this election. He has no doubt asserted that he is connected with Bihar since 1937 and have contacts with several M.L.As. and Ministers of the States. The only source of his such contact, according to his own admission, appears to be donations made to the different political parties by the companies with whom he has been working.

48. There are evidence and circumstances on record which unmistakably show his very meagre association with the State of Bihar. He himself admits that he does not own any house in Patna. He however, claims to reside at Patna in the house of one Basdeo Agarwal who as evidence on record shows is very distantly related to him. It is admitted on his behalf that he does not pay any rent for his residence in this house though he asserts to be living in a part of it since about the close of 1962. As his (R.W. 13) admissions are, he was born at Nazibabad in Uttar Pradesh where his parents were living; he got his school education in Nazibabad and joined the Intermediate classes in college at Meerut (U.P.) where he was in second year class when he gave up his studies. Admittedly, his children are receiving their education in Delhi and Calcutta. According to P.W. 13 (Sakoor Ahmed) this R. P. Jain was from outside this State taking part in this election.

Similar is the statement, regarding his residence in Calcutta and not in this State, of the petitioner (P.W. 21). His own witnesses (R.W. 2, 4 and 5) have denied to know about his (Respondent no. 1) address. This would appear to militate against his positive case that he has been regularly residing at Patna since about the close of 1962. The petitioner has filed the certified copy of the voters list of West Bengal (Ext. 6). This copy was issued on 28th August, 1964 and this list appears to have been prepared in 1961. In this document the residence of this respondent no. 1 (R. P. Jain) is noted as no. 115 (top floor) Southern Avenue, Calcutta.

49. As he (R.W. 13) has said, he had decided sometime in the month of January, 1964 to contest this Rajya Sabha election and he filed his application for his inclusion of his name in the voters' list of Bihar Assembly Constituency sometime in the middle of February, 1964. From the certified copy of the ordersheet (Ext. P) filed by him it appears that his application in this behalf was put in on 20th February, 1964 where he gave his residential address as no. 11A circle no. 243 mohalla Kidwai Puri (Patna). It is not disputed that this house is the same as above house of Basdeo Agarwal where he claims to be living in Patna. Eventually his claim for inclusion of his name in the electoral roll for Patna West Assembly Constituency was allowed by the Electoral Registration Officer on 7th March, 1964. As I have mentioned above, the nomination papers of this election were to be filed between 4th March, 1964 to 11th March, 1964. All these facts go to show clearly that even his application for inclusion of his name in the electoral roll of this State was for the first time filed just on the eve of this election and it was included on a day during the period prescribed for the filing of nomination papers by the prospective candidates. It is significant to find that this Basdeo Agarwal in part of whose house he claims his regular residence in Patna and at which address his name has been included in the electoral roll of Patna West Assembly constituency has not come forward to support him on this point though admittedly he (Basdeo Agarwal) is alive living at Patna.

50. In this case when the evidence of the petitioner was still going on, a prayer was made on his behalf on 9th January, 1965 to allow him opportunity to inspect the ballot papers cast in favour of respondent no. 1 and got the relevant of them exhibited in the case. This prayer was most seriously resisted by the respondent. After hearing the parties the Tribunal, however, allowed this prayer of the petitioner under its order dated 23rd January, 1965. Against that order, he (respondent no. 1) moved the Hon'ble High Court in M.J.C. 77 of 1965 which was however, summarily dismissed. His prayer in the Hon'ble Supreme Court for special leave against that order of the Hon'ble High Court was also summarily dismissed on 2nd February, 1965. Thereafter the 30 ballot papers cast in his favour were inspected and they have all been exhibited in court as Exts. 11 to 11(3). The 24 ballot papers polled in favour of petitioner have also been exhibited as Exts. D to D(23). It may be mentioned that in course of his arguments on his prayer for inspection of ballot papers, petitioner's Counsel unequivocally gave out that he had no objection to the respondent inspecting his ballot papers if he so liked and in that context the Tribunal had in course of its above order dated 23rd January, 1965 allowed their inspection also.

51. As the inspection of the respondent's 30 ballot papers Ext. 11 series read with marked copy of the electoral rolls (Ext. 4 series) with the signatures of the voters made on them (Ext. 5) have disclosed, they consist of 11 congress M.L.As., 7 Swatantra M.L.As., 2 P.S.P. M.L.As., 2 Socialist Party M.L.As., 1 Jan Sangh M.L.A. and the rest 7 of the independent M.L.As. This fact is clearly borne out when the names of these voters are read with references to the aforesaid document Ext. 3 showing the party-wise names of the different M.L.As. in the Bihar Legislative Assembly. The ballot paper Ext. 11(a) which according to petitioner is of this Vidya Kishore Vidyalankar has been seriously challenged to be not his ballot but of the independent M.L.A. Bateshar Prasad (R.W. 3). My subsequent discussions will however show that the respondent's contention in this behalf is not well founded and petitioner has rightly counted it to his (Vidya Kishore Vidyalankar) ballot. Learned Counsel for the petitioner has submitted that it is significant to find that all these 11 Congress M.L.As. who have cast their first preference votes to respondent no. 1 (R. P. Jain) belong to either scheduled castes or scheduled tribes. This fact, according to him, is also pointer to the respondent's purchase of their votes in his favour because he would have found it easier to tackle them in this front taking advantage of their general poverty and lack of literacy.

52. Of the above all Congress M.L.As. whose first preference votes have been found cast in favour of R. P. Jain, 4, namely, Vidya Kishore Vidyalankar, Jadunandan Murmur, Chetu Ram and Baldeo Prasad are among the 34 M.L.As. who

had been according to the party arrangement allotted to the share of this petitioner Sheel Bhadra Yajee under the list Ext. 2(f), 4, namely, Barka Baski, Paul Murmur, Dhan Singh Munda and Singh Rai Murmur are among the 34 M.L.As. allotted to the share of the Congress candidate Jahanara (wife of Sri Jaipal Singh) under Ext. 2(c); 2, namely, Guru Ramdas and Shree Govind Ram are among the 34 M.L.As. allotted to the quota of Congress candidate Brij Kishore Pd. Sinha under Ext. 2(e), and 01, namely, Punai Oraon is of the 34 M.L.As. allotted to the quota of Chaudhary A. Mohd. under Ext. 2(d). Among these 4 M.L.As. of the quota of the petitioner, the name of Baldeo Prasad is not included in the eight names mentioned in schedule I of the election petition who are said to have been bribed by respondent no. 1. But this list includes the names of Vidya Kishore Vidyalkar, Chetu Ram and Jadunandan Murmur.

53. So far as the ballot papers of the eight persons named in this schedule I are concerned, those of Jagannath Pd. Swatantra and Paul Dayal have not been brought on record and as such it is not known to whom they had cast their first preference vote, whether for the petitioner or respondent no. 1 and for someone else. The ballot papers of Mangal Pd. Yadav, Bhola Nath Das and Maya Devi which are, respectively Exts. D(16), D(4) and D(9), show casting of their first preference to the petitioner (Sheel Bhadra Yajee). The ballot papers of Chetu Ram and Jadunandan Murmur which are Exts. 11(2) and 11(f) show that their first preference have been cast in favour of respondent no. 1 (R. P. Jain). As regards the ballot of Vidya Kishore Vidyalkar there is controversy between the parties as to which is his ballot paper. According to the petitioner his ballot paper is Ext. 11(a) which would show that his first preference was in favour of this R. P. Jain. According to the respondent, this Ext. 11(a) is the ballot of Bateshar Pd. M.L.A. (R.W. 3) whereas the petitioner says that the ballot of this Bateshar Prasad is Ext. 11(h) and not this Ext. 11(a). It would, therefore seem necessary to first find out whether Ext. 11(a) is the really ballot paper of this Vidya Kishore Vidyalkar who has examined himself as R.W. 7 for respondent no. 1. My views on this point are as follows.

54. The ballot number of Ext. 11(a) is given as 59 whereas that in Ext. 11(h) is 60. The names of both Vidya Kishore Vidyalkar and Bateshar Prasad are to be found in the marked electoral roll sheet Ext. 4(a). In this sheet their serial number is 19 and 59 respectively. The number of ballot papers issued to both these persons has however been shown the same, namely, 59 on this sheet and this seems to be the cause of the whole confusion. As a perusal of the entire marked electoral rolls, Ext. 4 series, show, there is no mention of the issue of ballot paper no. 60 to any voter. Probably one of these two ballots bore the number 60 which has been wrongly recorded in the roll as 59. In this behalf it has been urged for the petitioner that the ballot issued to Bateshar Prasad was no. 60 which has been recorded wrongly as no. 59 against his name in the roll, and Ext. (h) is really his ballot paper. This Bateshar Prasad (R.W. 3) was admittedly one of the proposers of respondent no. 1 in his nomination paper regarding this election. It also appears that he had been elected to the Assembly in the 1962 election as an independent candidate. So far as Ext. 11(a) is concerned, the first preference is R. P. Jain (Independent) and the second, 3rd, 4th, 5th, 6th and 7th to Sheel Bhadra Yajee, Brij Kishore Pd. Singh, Ram Bahadur Singh, Awadshwar Pd. Singh, Jahanara and Choudhury A. Mohd., respectively, who were all congress candidates in this election. In this ballot, 4 more preference have been expressed namely, 8, 9, 10 and 11 which are in favour of Sisir Kumar (P.S.P.), Parmanand Kojriwal (Swatantra), Anand Chand (Swatantra) and Jankinandan Singh (Independent). In Ext. 11(h) only 5 preference have been expressed which are first to R. P. Jain, second to Jahanara, 3rd to Sisir Kumar, 4th to Parmanand Kojriwal and 5th to Jankinandan Singh. It is somewhat difficult to believe that Bateshar Pd. who was an independent M.L.A. and had figured as proposer in the nomination paper of R. P. Jain would have thought giving all his next six preferences, namely, 2 to 7 to six Congress candidates who were contesting this election. Exercise of these next six preferences in favour of Congress candidates may be regarded as a circumstance in favour of the fact that this ballot was of a Congress M.L.A. and not of an independent M.L.A. who was then in the camp of their opponent R. P. Jain. Vidya Kishore Vidyalkar (R.W. 7) on looking into Ext. 11(a) has stated that the preferences expressed in it in ink are not in his pen and that it [Exts. 11(a)] is not his ballot paper. At the same time, he has also denied Ext. 11(h), after looking into it, to be his ballot paper. This denial is, however, not of much consequence when his subsequent statements are taken into consideration which are to the effect that he cannot recognise the figures in these two ballots nor can he say by looking at them (ballot papers) as to which of them is his ballot paper and which is not his ballot paper.

He has further admitted that he cannot say definitely if he would be able to identify his own ballot paper by looking into the other ballot papers of this Rajya Sabha election. He was given opportunity by the petitioner's Counsel to look into all the other exhibited ballot papers and also all the unexhibited ballot papers of this election and say which of them is his, but he expressed inability to say which of these ballots is his. He is, however, definite that Ext. 11(h) is not his ballot paper. He has admitted that he had been placed in the group of M.L.As. allotted to Sheel Bhadra Yajee to cast first preference vote in his favour in the list Ext. 2(f) which was prepared by the leader of the Congress legislature party and he had signed on it. He has, however, pleaded ignorance to say whether he had followed this mandate while casting the votes in this election. His statement further is that even on 28th March, 1964 when he came out of the polling booth after casting his vote he did not remember if in casting the vote he had followed that party mandate or not. It may be mentioned that he is not illiterate or half literate but holds the degree of Vidyalankar which, according to him, is equivalent to B.A. degree.

55. Relying upon his (R.W. 7) averment that in this election he had expressed his six preferences, it has been submitted for the respondent that it eliminates the possibility of Ext. 11(a) being his ballot because it contains 11 preferences. It is however difficult to accept this contention. As I have shown above, the memory of this gentleman is so faulty that he did not even remember after coming out of the polling booth whether he had cast his vote according to the preference for which he had received mandate from the party leader. It is, therefore, difficult to believe his this statement made after about a year that in his ballot he had expressed only six preferences. It is suspected that he is making this statement to riggle out of the situation in which he finds himself placed now after the ballot papers have been exposed and inspected. Bateshar Prasad (R.W. 3) has said that as far as he could remember he had been given ballot paper no. 59 in this election and that he had seen this number at the time it was handed over to him by the clerk incharge. He has admitted that inside the polling booth they were made first to sign on the electoral roll and then given the ballots, and that at the time of making over the ballots to the voters their number, used to be concealed by pasting slips on them thereafter they (numbers) were not visible or decipherable. In the face of these admissions, it is difficult to understand as to how he could manage to look at the number of his ballot at the time it was handed over to him and then also to remember it correctly for so long i.e. almost a year. He admits to have participated in the two Bihar Legislative Council elections from the Bihar Assembly Constituency where method of voting is the same as in the Rajya Sabha election. He also admits to have had occasion to cast his votes in the general elections of 1952, 1957 and 1962 both for the State Assembly and the Parliament. It is however, curious to find him remembering his ballot number of this Rajya Sabha election though he does not remember the number of his ballot in any of the aforesaid other elections in which he had admittedly participated and cast his vote. He has not assigned any particular reason as to how he remembered this number and not others. In these circumstances, I am unable to place reliance upon his statement in this regard that he had seen the number of his ballot of this election which was 39.

56. Petitioner has also examined one Diwakar Dutt Pandey (P.W. 22) to say that he is acquainted with the handwritings of Vidya Kishore Vidyalankar and he could recognise his writings including figures. P.W. 22 has further, after looking into Ext. 11(a) averred, that the figures written in it are of this Vidya Kishore Vidyalankar. As his evidence further is, he knows him (Vidya Kishore Vidyalankar) for the last 5 to 6 years and whenever he comes to Patna he stays with him (Vidyakishore), Rambaran Pd., Mangal Pd. Yadav and Dhrub Narain Tripathy who are M.L.As. from his district (Motihari). He has also stated that in 1964-65 he ploughed the lands of this Vidyakishore in his village with his tractor on hire and both are on visiting terms. It has been urged on behalf of the respondent that this P.W. 22 is not truthful but is a witness of necessity whom the petitioner had been able to anyhow get hold of on the morning of 12th February, 1965 (his evidence in court took place on 15th February, 1965) as according to his (P.W. 22) own admission when petitioner Yajee had come to the flat of Rambaran Pd. M.L.A. in the morning of 12th February, 1965, where he (P.W. 22) was staying, to enquire from him (Rambaran Prasad) if there was anyone who could identify the handwritings of Vidya Kishore Vidyalankar, he (P.W. 22) himself volunteered that it was not difficult because if he could see his hand-writing he would be able to identify them. Moreover, Vidyakishore Vidyalankar (R.W. 7) has emphatically denied to know any such Diwakar Pandey and has also denied to have ever hired his tractor to cultivate his land which is only 5 bighas and does not require cultivation by tractor.

57. The above assertion of P.W. 22 that whenever he comes to Patna he stays with this Vidyakishore Vidyalankar whom he knows for last 5 or 6 years and is also acquainted with his (Vidyakishore Vidyalankar) handwritings have not been challenged as untrue by the other side. The only suggestion to him is that he is deposing falsely in this case to help the petitioner. It has been pointed out by reference to the evidence of Keda Nath Singh (P.W. 8) who is the General Secretary of the Bihar Pradesh Youth Congress, that this Diwakar Dutt Pandey had been elected to the Executive Committee of this Youth Congress of which the petitioner Sheel Bhadra Yajee is the Chairman of the Advisory Board since 1957. This relation between the two, according to the respondent, has been responsible for making him (P.W. 22) to come to the witness box to depose falsely for him. In my opinion, merely because he (P.W. 22) is also a member of the organisation whose chairman is the petitioner, by itself, could not be so compelling a reason as to make him daring enough to think of coming to the witness box to depose falsely on oath to support his false case in this behalf. He could not be expected to be blind to the risk involved in this step of his, because if his evidence is held to be false he would make himself liable to prosecution for perjury which might also blast his political career in the Youth Congress. Moreover, it will not perhaps be correct to hold that it is impossible for anyone to decipher and identify the figures written by another in any circumstance. It depends, I think, on how much opportunity the identifier had to see the handwritings including figures concerned. If he has sufficient opportunity for the same, it cannot be said that even then he would never be able to identify the figures. It has not been shown in his (P.W. 22) cross-examination that he had not such opportunity *vis-a-vis* the writings of Vidyakishore Vidyalankar. So on a consideration of all these facts, I would not easily brush aside his (P.W. 22) testimony in this regard as a piece of falsehood, as canvassed by the respondent.

58. Thus after having carefully considered all the above facts and circumstances, I have no hesitation in holding that the ballot Ext. 11(a) is that of this Vidyakishore Vidyalankar and the contention of the other side that this ballot is of Bateshar Prasad deserves to be discarded.

59. Now I shall proceed to examine the truth or otherwise of the allegation regarding securing of votes by respondent no. 1 after bribing the electors concerned. As observed above, the petitioner's case in this regard is set out in paragraph 21 read with schedule I of the election petition. It is alleged therein that respondent no. 1, his election agent and his worker with their consent had paid money to the several voters of the petitioner and also other candidates and secured their first preference votes in his favour; particulars of some of which are given in schedule I. In this schedule the names of 8 M.L.As. have been mentioned (initially only five names were given but three names were added subsequently). In course of my above discussion it has been shown that all these eight M.L.As. were, according to the party arrangement, allotted to the quota of this petitioner Sheel Bhadra Yajee with party mandate to cast their first preference votes in his favour. Relying upon the provisions of section 83 of the R.P. Act it has been urged for the respondent that the petitioner has got to confine his case in this behalf only in respect of these eight M.L.As. because this section requires the petitioner to give full particulars of the alleged corrupt practice. In other words, it was required of him to give names of the persons with other details who are alleged to have been bribed, and once he has furnished the particulars in the election petition it is not open to him to travel beyond that because general and vague allegation about his (respondent) purchasing votes of other candidates is meaningless in the absence of the particulars thereof in the election petition itself. Learned Counsel for the petitioner also mainly confined his arguments to the case of only these eight persons mentioned in Schedule I and in that also more particularly with the three cases, namely, Vidyakishore Vidyalankar, Chetu Ram and Jadunandan Murmur. As it will appear, evidence has also been led by the petitioner in respect of these 8 M.L.As. only.

60. As regards Mangal Pd. Yadav, the petitioner's evidence consists of testimony of two persons, P.W. 3 (Madan Mohan Chaudhary) and petitioner himself (P.W. 21). According to the petitioner's own admission his knowledge about this matter is derived from the information that he had got from others. So his only eye witness is P.W. 3. According to him (P.W. 3) in March, 1964 he was Provincial Joint Secretary of the Bihar Youth Congress and was living in 7 Gardinar Road which is quite close to the Gardinar Road of M.L.A.'s flat, on 26th March, 1964 he had met the petitioner in the Assembly house where the latter gave him a list of M.L.As. voters and asked him to go and remind the M.L.As. named therein so that they should come and cast their votes in time; in that connection when he went to M.L.A. flat no. 49 occupied by Mangal Pd. Yadav, on 25th March, 1964 between 8-9 P.M. he found Rajendra Pd. Jain, Bishwanath

Verma and S. R. Dutt sitting there from before along with Mangal Pd. Yadav; on reaching there he (P.W. 3) found Rajendra Pd. Jain paying money into the hands of Mangal Prasad Yadav saying that he should remember the first preference vote; he then went to inform Yajee about it but he found his house locked and so could not meet him; that very night he left for his village home by 11 P.M. steamer and returned to Patna on 27th March, 1964 but found that Yajee had gone on tour and met him on 4th April, 1964 when he told him about the above passing of money between the two. Yajee (P.W. 21) has stated that on 25th March, 1964 he had entrusted Nandan Mohan Chaudhary to meet the Congress M.L.As. of his quota regarding casting their first preference votes; on 26th March, 1964 he left Patna and went on tour to Manipur, Tripura and Assam for Congress organisational work as being incharge of these areas and returned to Patna on 4th April, 1964 when he was informed by Madan Mohan Chaudhary that when he (Chaudhary) had been to the flat of Mangal Pd. Yadav regarding his first preference vote he saw R. P. Jain, Bishwanath Verma and S. R. Dutt sitting at that place and Jain Sahab offering money to him (Mangal Pd. Yadav) for giving his first preference vote in his favour.

61. As referred to above, the ballot paper of Mangal Pd. Yadav is Ext. D(16). It shows that he has given only six preferences among which the first is to the petitioner Shcel Bhadra Yajee and the other five to the other five Congress candidates in rotation. The then Congress Chief Whip, Sakeer Ahmed (P.W. 13) has said that since there were only six Congress candidates in that election they had instructed the Congress M.L.As. to cast their votes only up to 6th preference for the six Congress candidates and their second to 6th preferences were to be rotated in such a way that all the Congress candidates should be able to get equal number of the preferences. It will thus appear that Mangal Pd. Yadav had exercised his preferences in accordance with this mandate. Mangal Prasad Yadav has examined himself as R.W. 2. He has emphatically denied the allegation of bribery against him and asserted that Madan Mohan Chaudhary had never come to his flat on 25th March, 1964 or on any other date. He (P. W. 2) has also sworn an affidavit (Ext. J) in this case denying all these allegations made against him and filed it in court through the Advocate (R. W. 1) along with his Vakalatnama Ext. K(4). R. P. Jain (R. W. 13) and his election agent Bishwanath Verma (R. W. 10) have also deposed on oath to say that they had never been to the flat of this M.L.A. on 25th March, 1964 or offered money to him to secure his vote as stated by Madan Mohan Chaudhary.

62. It will thus appear that against the statement of Madan Mohan Chaudhary there are denials on oath of all the persons concerned, namely, Mangal Pd. Yadav, R. P. Jain and Bishwanath Verma. So far as S. R. Dutt is concerned respondent's case that he does not even know him nor he has ever worked in this election for him. These denials are also corroborated by his ballot paper Ext. D(16) in which as shown above he has cast his all preference in accordance with the party mandate said to have been issued by the Congress party. On consideration all these facts the allegation of the petitioner in this regard to support which there is merely the only the solitary testimony of P. W. 3 does not inspire confidence and cannot therefore be relied upon to hold against him (Mangal Prasad Yadav).

63. So far as Bhola Nath Das is concerned, the petitioner's evidence against him consists of the testimony of Ram Pratap Sharma (P.W. 17) according to whom he had come to Patna on 25th March, 1964 and was staying with Ramjatan Singh, M.L.A. in his flat and when he was returning to his village that night at about 10 p.m. and was going to the railway station to catch the train Ramjatan Singh gave him a letter to be made over to Bhola Nath Das in his flat no. 14 and accordingly he went there to make over that letter; when he reached the place of Bhola Nath Das he found three persons sitting in his room of whom one was R. P. Jain (whom he has identified in court) and the other two were of black and ordinary complexion and at that very time he saw R. P. Jain taking out a bundle of currency notes and handing it over to Bhola Nath Das saying that he should give his first preference to him (R. P. Jain). His (P.W. 17) further statement is that in July, 1964 when Ramjatan Singh had been to his village he disclosed this fact to him and at about the end of July, 1964 when he met Yajee at the flat of Ramjatan Singh he (Yajee) asked him if he had informed like that to Ramjatan Singh to which he replied in the affirmative and also told Yajee about it. Both Ramjatan Singh and Yajee (P.Ws. 20 and 21) have stated about his (P.W. 17) passing on such information to them about this matter at the above times. Against this, Bhola Nath Das examined himself as (R.W. 5) has emphatically denied all these as deposed to by P.W. 17. He (R.W. 5) has also sworn an affidavit Ext. J(4), denying all these allegation and filed it in court along with his Vakalatnama Ext. K(3) through the above Advocate R.W. 1. Both R. P. Jain and Bishwanath Verma (R.Ws. 13 and 10) have also emphatically denied about

their having going to the flat of this Bhola Nath Das on 25th March, 1964 or any other date and also that no money was offered to him by R. P. Jain on that day or ever. Ext. D(4) is the ballot paper of above Bhola Nath Das. It shows that he had cast only six preferences first of which was in favour of the petitioner Sheel Bhadra Yajee and the other five in rotation to the other five Congress candidates. Having considered all these evidence and also the circumstances as disclosed by the ballot paper showing that he had exercised his franchise strictly according to the mandate which according to the petitioner's case was issued to the Congress M.L.As. I find myself unable to accept the petitioner's allegation in this behalf as having been proved beyond all reasonable doubts.

64. As regards Maya Devi, her ballot paper Ext. D(9) shows that she has cast six preferences, first of which is to Sheel Bhadra Yajee. Her other four preferences, namely, 2, 3 and 4 as also 6 are also in favour of Congress candidates in rotation. Her 5th preference is, however, in favour of R. P. Jain. It is no doubt a suspicious circumstance against her. As I have shown above R. P. Jain was almost a foreigner to this State having nothing attractive about him to attract the votes of the M.L.As. belonging to the Congress party specially when there was also another Congress candidate in the field fighting the election and they had also got the party whip to vote for them. But on this suspicion alone it is not easy to definitely conclude that her 5th preference vote had been obtained by R. P. Jain after bribing her and not otherwise. The petitioner's witness who claims to be an eye witness of her bribery at the hands of R. P. Jain is Ramyan Singh (P.W. 1) who claims himself to be a political and social worker and also Secretary of the All India Forward Block. He also claims to be holder of other posts in other political organisations. His statement is that he knows Maya Devi and is on visiting terms with her; on 24th March, 1964 in the evening he had been to her in her flat no. 48 and when he was still sitting there he found R. P. Jain, S. R. Dutta and Bishwanath Verma whom he knew from before coming to her flat; R. P. Jain requested Maya Devi to come aside as he had to talk to her some confidential thing upon which she asked R. P. Jain that whatever he had to say he should say in his (P.W. 1) presence as he was her man and she had already had talks with him (R. P. Jain) promising to help him in the election upon which he (R. P. Jain) took out some 100/- rupee notes and gave them to her saying that she was in difficulty as a case was going against her; she kept those money and Jain Sahab told her that she should remember and give her first preference vote to him and saying so he and his two companions went away from that place. His (P.W. 1) further statement is that he had disclosed this incident to Yajee on 26th March, 1964 after 11 p.m. when he returned to Patna by the Punjab Mail because he was out of Patna on 26th March, 1964. Yajee (P.W. 21) has also deposed supporting such disclosure by this witness to him regarding this matter. It has been contended for the respondent that he (P.W. 1) has come falsely to depose for Yajee with whom he had been admittedly in the Forward Block party for a long time and also in Kishan Sabha and it is this political affinity that has impelled him to support him falsely. Both R. P. Jain and Bishwanath Verma (R.Ws. 13 and 10) have denied on oath to have been to her in connection with this election to her flat on 24th March, 1964 or ever. R. P. Jain has also denied to have given her money as alleged by P.W. 1. As I have shown above her first four preferences have been given to the Congress candidate and it is her 5th preference that had gone to R. P. Jain. Respondent contended that if P.W. 1 is to be believed, Jain's giving of money and her acceptance of it was for her first preference vote, but not only her first preference but the next three preferences have also gone to the Congress candidates and there was no sense in her casting the 5th preference to Jain because that might not have been useful to him for his success. After taking into consideration all the evidence and circumstances on record about this point I am of the view that they do not prove, beyond all doubts, the charge of alleged bribery levelled against her. The submission of the petitioner that her absence from the witness box is a circumstance in favour of his case against the respondent in this behalf is not well founded. After all, the responsibility to prove this charge primarily rests on the petitioner and it was not in any way obligatory on the respondent to try to put her in the witness box to deny the allegation against her in this connection.

65. Regarding the case of Paul Dayal, the only evidence of the petitioner (P.W. 21) is his own uncorroborated testimony. There is nothing in his evidence to show that he had seen him being bribed by R. P. Jain or anyone on his behalf. He (P.W. 21) has simply named him (Paul Dayal) also along with other 7 M.L.As. who all, according to his information, had been bribed by R. P. Jain to secure their votes in his favour. His alleged informant about this Paul Dayal has not come forward to support him (P.W. 21) regarding this matter. As I have shown above, the ballot paper of Paul Dayal has not been brought on record and as such it is not known for which candidate he has cast his first or any other

preferences in this election. It will thus appear that there is practically no evidence or circumstance on record to substantiate the allegation of bribery against him (Paul Dayal).

66. As to Jagernath Pd. Swatantra, the petitioner's evidence consists of his own (P.W. 21) testimony and that of Kedar Nath Singh (P.W. 8). The latter is said to be the General Secretary of the Bihar Pradesh Youth Congress. He claims to be an eye witness of the acceptance of bribe by Jagernath Pd. Swatantra from R. P. Jain. His (P.W. 8) evidence is that on 25th March, 1964 at about 7 P.M. he had been to Jagernath Pd. Swatantra in his M.L.A. flat No. 85 and when he was still there, R. P. Jain, whom he had come to know before that day in connection with this election and also identified while sitting in court, Bishwanath Verma and another gentleman whom he did not know came to that place and he at his (Jagernath Pd.) request came out of his room because these persons had something to talk to him (Jagernath Pd.) in private; he however, stood by the side of the room and began to peep into the room through the blank space of the hanging *Parda* because it struck him as to why an independent candidate like R. P. Jain would visit a Congress M.L.A. voter; in course of that peeping he noticed R. P. Jain passing some currency notes to Jagernath Pd. Swatantra saying that he (Jagernath Pd.) should remember about the first preference vote and should not forget it. His further statement is that thereafter he first went to Sadakat Ashram and from there at about 9 P.M. went to Rajendra Nagar on receiving a telephonic message from his *Chachera* father-in-law about indisposition of his wife; he however stayed at Rajendra Nagar on 26th March, 1964 because his wife was still ill and when on 27th March, 1964 he read in Rajendra Nagar about the defeat of Yajee in newspaper he came to Sadakat Ashram and disclosed to his friends about the above deal between Jain and Swatantra and they all called a meeting on that very day of the Youth Congress at 2 P.M. passing resolution about it and from the very next day their Secretary Jagernath Pd. Chaudhary started his fast unto death. He has also produced in court the proceeding book of the Bihar Youth Congress which has been marked as Y for identification. As he has said, this book could not be produced in court earlier because he was out in connection with reception and moving of the Jawahar Jyoti in the State. The other side has challenged the relevant portion of this book to have been changed by him. The other side has also examined the Court's peon M Oraon (P.W. 9) to say that he had taken the court's notice to him (Kedar Nath Singh) on 4th October, 1964 for filing this book in court but he refused to accept that notice. Similar is the statement of Bhagwan Pd. (R.W. 11) who was the Counting Agent of R. P. Jain in this election. As he (R.W. 11) has said, he had accompanied the Court's peon to Sadakat Ashram when he had gone to serve this notice on Kedar Nath Singh to serve as identifier as asked by R. P. Jain and that he had refused to accept it in his presence. Kedar Nath Singh (P.W. 8) has seriously rebutted these allegations about his refusal to accept the notice and has also said that the Court's peon had never met him on that day as he was out of Patna. Petitioner (P.W. 21) has said that on his return from Assam on 4th April, 1964 where he had gone on 26th March, 1964 in connection with organisational work, this Kedar Nath Singh had informed him about the fact of his having seen R. P. Jain bribing Jagernath Pd. Swatantra and asking him for his first preference vote in his favour. Against this, there is the emphatic denial of R. P. Jain (R.W. 13) and Bishwanath Verma (R.W. 10) that they had never been to Jagernath Pd. Swatantra in his flat on 25th March, 1964 or on any other date. They have also denied the payment or money by R. P. Jain to him (Jagernath Pd.). It will thus appear that there is oath against oath regarding this allegation in that he (P.W. 8) has stated have seen R. P. Jain bribing Jagernath Pd. on 25th March 1964 has been denied by R. P. Jain and also Bishwanath Pd. who is said to have accompanied him on that occasion. As mentioned above the ballot paper of Jagernath Pd. has not been brought on record. In fact none of the 30 ballot papers of R. P. Jain (Ext. 11 series) and 24 ballot papers of Yajee (Ext. D series) is of this Jagernath Pd. Swatantra which is indicative of the fact that he has not cast his vote in favour of either of these persons. On consideration of all these facts, I am not inclined to hold that the petitioner's case in this regard has been fully established.

67. It will not perhaps be out of place to mention here that in course of his argument Learned Counsel for the petitioner did not appear to be very serious in pressing his allegations of bribery against these five persons, namely, Mangal Pd. Yadav, Bhola Nath Das, Maya Devi, Paul Dayal and Jagernath Pd. Swatantra. It may be due to the fact that in course of his inspection of the ballot papers, he found that the first three had cast their first preference vote in favour of the petitioner as required of them under the party mandate and the ballots of the other two have not been exposed so that it is not known whether they have at all voted for the petitioner or respondent no. 1 or for whom they have voted.

63. Then comes the consideration of the cases of other three persons, namely, Chetu Ram, Jadunandan Murmur and Vidyakishore Vidyalkankar. As mentioned above, their ballot papers are Exts. 11(2), 11(f) and 11(a) respectively, and in each of them the first preference have been given to R. P. Jain. These persons have been examined as R.Ws. 3, 4, and 7 on behalf of respondent No. 1. They (R.Ws. 3, 4 and 7) have admitted and identified their signatures on the list Ext. 2(f) which as shown above was prepared by the leader of the congress legislature party setting out the names of the 34 M.L.As. who under the party arrangement were allotted to the share of Sheel Bhadra Yajee with direction to cast their first preference in his favour. R.Ws. 4 and 7 have also admitted about this mandate to them. R.W. 3 has said that he had never received any mandate from the congress party as to in whose favour he was to cast his first preference vote in this Rajya Sabha election. His admission, however, is that before voting he had been given a piece of paper on which the preference in the order in which he was to cast his vote were noted. This no doubt amounts to his indirect admission about that mandate issued by the congress party which meant nothing but the direction as to how these voters were to exercise their franchise. As I have held above, it was within the competence of the leader of the congress legislature party and the Chief Whip to issue such mandate to the M.L.A. voters of the congress party. Jadunandan Murmur and Vidyakishore Vidyalkankar (R.Ws. 4 and 7) had admittedly been elected to the Assembly as Congress party candidates in the general election of 1962. So also was the case with Chetu Ram (P.W. 6). His (R.W. 4) statement is that since 1962 he is an active member of the congress and that in the general election of 1957 and 1962 he had helped the congress candidates set up for the Parliament and State Legislature and had not lend support to any other candidate in these elections. He also admits that when he had joined the congress accepting that he would abide by its principles and discipline and used to obey and follow all the directions issued by the congress party before his election in 1962. His further admission is that in the congress legislature party he is on the side of its leader Sri K. B. Sahay and obey his words. As it has been shown above the list including his name in the group of 34 M.L.As. allotted to Sheel Bhadra Yajee with mandate to vote for him was the doing of this leader Sri K. B. Sahay. According to him (R.W. 4) he did not follow this mandate but cast his vote according to his free will in this Rajya Sabha election because they as Nation Congress Adhyasis are distressed with the groupism in the congress in as much as being in minority no body cares for them. Vidyakishore Vidyalkankar (R.W. 7) admits that at the time of going into the polling booth to cast his vote he knew about the mandate according to which he was to cast his first preference vote to Sheel Bhadra Yajee, but when he came out of the booth after casting his vote he did not remember if in casting it he had followed the party mandate or not and he also does not remember it now. According to him (R.W. 7) R. P. Jain had never met him on 26th March 1964 or any day before that. He goes on to say that he is not at all acquainted with him (R. P. Jain) nor he knows wherefrom he comes or what he does, and had not seen his face but had simply heard his name during this election from the M.L.As. like Budhnath Singh, Ramnad Singh. In spite of this it is significant that he had cast his first preference vote to him (R. P. Jain). Chetu Ram (R.W. 8) has said that he was elected M.L.A. in the general elections of 1947, 1952, 1957 and 1962 and that during the elections of 1947, 1952, 1957 and 1962 he had lent support to the congress candidate contesting from his constituency which shows his intimate association with the congress since long. His further statement is that among the six congress candidates set up for this Rajya Sabha election none was a member of the scheduled castes or backward class as a result of which those belonging to the scheduled castes and backward classes were grieved. Though he has not said so in clear terms, but this fact had perhaps weighed with him, being a member of the scheduled caste (Rajwar), that he did not cast his first preference vote to Yajee in spite of the leaders' mandate to that effect. His (R.W. 8) assertion is that to express that resentment a meeting was held at the residence of the Chief Minister on 17th or 18th March, 1964 in which some members including himself, Daroga Rai, Thakur Bhuneshwar Singh had expressed their resentment and had also requested the Chief Minister that the candidates should be so selected that representation was given to persons of the backward classes and Harijans. The names of the six congress candidates finally selected by the All India Congress Parliamentary Board were communicated to the Bihar State Congress Committee in the A.I.C.C. letter dated 27th February, 1964 (Ext. 1). This was made known to the candidates concerned by the Bihar Congress Committee in its letter Ext. 1(a) and they were required to file their nominations papers whose dates as I have shown above were between 4th March 1964 to 11th March 1964 and they were to be scrutinised on 13th March 1964 and withdrawal if any was to be done by 16th March 1964. In these circumstances, it is not easily understandable as to what particular use was this alleged meeting on 17th or

18th March, 1964 because by that time every preliminary regarding this selection was over and only polling remained. Notwithstanding such protest meeting he appears to have signed the list, Ext. 2(1), which was prepared by the party leader on 25th March 1964. There is nothing in his evidence to show that he had expressed any objection to signing on this list wherein his name was included as one of the M.L.As. who were meant to cast their first preference vote to Sheel Bhadra Yajee. As he says, he does not know if the names of these six congress candidates had been approved by the All India Congress Committee before 17th March 1964. So also he says that he does not remember the names or caste of these six congress candidates nor did he remember it on 17th March 1964 or 18th March 1964. In such circumstances, it is somewhat difficult to understand as to how they could hold such a meeting on that day i.e. 17th or 18th March, 1964 to protest against non-inclusion of any candidate of scheduled caste or backward class therein. In his subsequent statement he (R.W. 5) has, however, said that this meeting at the place of the Chief Minister was regarding selection of the persons who were to be given congress ticket for this Rajya Sabha election and also some other subjects like land levy etc. As I have shown above, the list of the congress candidate had been finalised before 27th February 1964 by the A.I.C.C. As such there could be no question of having any meeting to decide which of the persons should be given congress ticket for this election about a month later. According to him (R.W. 5) he had no connection with the candidate who were contesting this Rajya Sabha election against the congress candidates. He further goes to say that he does not remember who else were contesting and what is their name or address. In spite of such ignorance he has been found to have cast his first preference vote to R. P. Jain who as shown above was almost a stranger to this State and did not have anything spectacular about him to attract votes in the usual course of the M.L.As. belonging to particular political parties.

69. As mentioned above, respondent No. 1 has filed two written statements in the case, one on 20th June 1964 and the other which is an additional written statement on 28th November 1964. The subsequent written statement was put in by him after the petitioner's prayer to amend schedule I and II of his election petition which was in the shape of adding some names in each of them, whom the respondent No. 1 is alleged to have bribed and offered bribe, was allowed by the Tribunal on 18th November 1964. In the first written statement there is not even a whisper about the flouting of mandate by the congress M.L.As. on account of groupism etc. in the congress party. On the other hand, he has made therein wholesale denial about the existence of any party mandate to the congress M.L.As. and also about the parties having set up their candidates as such. It was for the first time that in paragraph 1 of his additional written statement, which was filed 5 months after the first written statement, that he came out with a case alleging that the congress party in the Bihar Legislative Assembly is not a well-knit or homogeneous political party but is a conglomeration or a number of warring groups owing personal allegiance to several leaders either on the basis of caste or of personal affiliation; the congress candidates said a large number of voters, particularly because no member of the backward classes or scheduled castes or tribes had been set up as a candidate; that the petitioner was socially and politically very unpopular person because of his changing party affiliation and being a staunch casteist and there was blatant disregard by the so called congress M.L.As. of the so called mandate to cast their first preference votes in favour of a particular candidate and they all freely voted for the candidates of their choice notwithstanding that undue pressure had been put on them by the petitioner and his other supporters against their such free franchise. It may be noted that no explanation whatsoever has been furnished by the respondent for such belated disclosure of his case on this line. Respondent No. 1 (R.W. 13) has admitted that he knows for the last three years about the existence of such groupism and casteism in the Bihar Congress legislative party. According to his volunteered statement his knowledge about it is derived from the fact that some ministers used to come to his uncle Shanti Pd. Jain at Delhi and discuss in detail about such groupism in the congress legislature party where he also happened to be present on some occasions and that he had also known about it in course of his discussion with some of the M.L.As. in Patna. It is, however, surprising that not a word has been spoken about such groupism or casteism in this party in his aforesaid first written statement filed in June, 1964. He has not also examined Sri Shanti Pd. Jain or any of those ministers, whom he had heard discussing about this matter, to corroborate him on this point. Even the M.L.As. during discussion with whom he had known about it have not come forward to support him in this behalf. That being the position, his case in this behalf alleged for the first time in his second written statement though his first statement is wholly silent about it seems to be just an after thought which appears to have been made out to suit his convenience. It

is somewhat significant to find him making statement about the flouting of mandate by the congress voters in his additional written statement filed on 28th November 1964 though till then the question as to in whose favour the voters had cast their votes was a closed secret in as much as the ballot papers were still unexposed. It was for the first time on 8th February 1964 that the ballot papers were exposed and inspected by the parties. So it is not easily understandable as to how he knew about the flouting of the mandate by them at that time. Learned Counsel for the petitioner has urged that such an averment by him in his written statement about 1½ months before their actual inspection would show that he knew about the violation of the mandate from before and for that he had no other way except some secret arrangement with them in the shape of purchasing their votes because there is no such case of his that the congress M.L.As. concerned had come and informed him about their flouting the mandate or that he was informed about it through some other source. Even in the affidavit filed with the additional written statement his allegation in this behalf is said to be based on information to its deponent Nityanand Dutt who has not been examined in court to disclose his source of information.

70. Respondent No. 1 (R.W. 13) has said that in the Bihar Congress Legislature party there is groupism and casteism and it consists of various warring groups owing personal allegiance to several leaders on the basis of caste or personal affiliation and that there were resentment in the congress M.L.As. belonging to the backward classes, scheduled castes and scheduled tribes as they had not been given adequate representation in the candidates set by the congress for this Rajya Sabha election. His further statement is that in 1962 general election, 20 M.L.As. were elected to the Bihar Legislative Assembly on the Jharkhand party ticket with Sri Jaipal Singh as its leader; though Jharkhand party M.L.As. merged with the Bihar Legislative Assembly Congress M.L.As. in 1963 during the Chief Ministership of Pt. Binoda Nand Jha on certain understanding between him and Jaipal Singh who was included in the ministry of Pt. Jha; after Kamraj Plan, Binodan and Jha resigned and Sri K. B. Sahay was elected leader of the congress legislature party in Bihar who did not, however, include Sri Jaipal Singh in his cabinet and the merger of the Jharkhand party with the congress became more or less formal and Jharkhand party in Bihar considered itself to be separate party with separate election symbol to it. As I have pointed out above, his knowledge of such groupism in the congress in Bihar is based on the talks that he had heard between some ministers and his uncle Shanti Pd. Jain none of whom has been examined to corroborate him on this point. He has admitted in his cross-examination that he had never been a member of the Jharkhand party nor can he say when this party had started but he simply knows that there is a party like that. In the face of this statement, his above statement about this merger on certain understanding between the two cannot be regarded to be of much consequence as he cannot be said to be competent enough to depose about it. In the subsequent statement he has said that his knowledge on this point is derived from news paper reports where he had simply read the statement of Jaipal Singh that Jharkhand party M.L.As. were merging with the Bihar Congress legislature party on certain terms and conditions and that the merger had not been rectified by the Jharkhand party. None of those reports has however been furnished before the Tribunal to support him in this behalf though he has given names of certain newspapers in which he had seen them published sometime in the middle of 1963. Among the six congress candidates, one, namely, Smt. Jahanara who is admittedly the wife of the above Jharkhand party leader Sri Jaipal Singh is of scheduled tribe. His two witnesses Bhola Nath Das (R.W. 5) and Vidyakishore Vidyalankar (R.W. 7) belonging to the scheduled castes and are congress M.L.As. have not, however, spoken of any such resentment among the congress M.L.As. of scheduled caste due to non inclusion of the scheduled caste candidate among those set up by the congress to contest this elections. I have already referred to the inconsistency in the statement of the congress M.L.A. Chetu Ram (R.W. 8) belonging the scheduled caste (Rajwar) regarding the entertainment of grievance by the M.L.As. of scheduled caste and backward classes for non-inclusion of any such candidate among the six candidates set up by the congress and expression of their resentment in that connection in the meeting held at the place of the Chief Minister. So far as backward classes are concerned, it is significant to find that he R. P. Jain has not been able to secure the vote of any backward class congress M.L.A. and all the 11 votes of the congress M.L.As. secured by him are of scheduled castes and scheduled tribes. As he (R.W. 13) has said, in course of this election he met some of the backward M.L.As. such as Daroga Rai, Sukhdeo Pd. Verma and Bindeshwari Pd. Mandal who had all lent their support to him in this election and that though he had not kept any particular programme before these backward M.L.As. and they were all supporting him as there was resentment amongst them. **In spite of this, there is nothing to show that the vote of any of**

these three persons has been cast in his (R. P. Jain) favour. He (R. P. Jain) being admittedly an Agarwal Jain does not belong to the backward class or scheduled caste or scheduled tribe. As it has been admitted by him (R.W. 13), he has no access to the records of any political party in Bihar nor he had any such occasion in connection with this election either before or at the time of the election. He further admit that he had not taken part in any of the meeting of any political party in Bihar held for the purpose of this election. In such circumstances it is difficult to understand as to how he could at all be definite about the existence of groupism or casteism in the Bihar congress legislature party whose advantage, as his case is, had come to him in getting votes of some of the congress M.L.As. His knowledge about existence of such groupism or casteism if any, in the circumstances has got to be noted as hear say. In this connection, it has been urged on his behalf that this malady in the congress legislature party in Bihar and also in some other States is so prominent and public that the Tribunal should take judicial notice of it which is permissible under law. I am, however, unable to uphold this contention. Respondent No. 1 in order to succeed on this point has to establish by cogent and reliable evidence existence of such groupism and casteism in the congress legislature party which as my above discussion will show he has failed to do.

71. So far as the charge of petitioner being a staunch casteism leading to deflection of his votes in this election is concerned, no positive evidence has been led by the respondent to prove it. Even he (respondent No. 1) has not made statement to this effect in his evidence in court. I have already referred to the qualifications of the petitioner as noted in the document published by the Parliament Secretariat which has been filed by the respondent i.e. Ext. E. As it is mentioned therein, he (petitioner) was elected to the Rajya Sabha in 1957 and again in 1958 which fact petitioner has also supported in his (P.W. 21) evidence. The second preference of all the four M.L.As., namely, Vidyakishore Vidyalkar, Jadunandan Murmur, Chetu Ram and Baldeo Pd. of the quota of the petitioner have been cast in his (petitioner) favour while their first preference have gone to respondent No. 1. If the allegation of casteism levelled against him (petitioner) and his voters having gone against him on this account is to be believed, then where was the sense in their giving their second preference to him. In that event, they would have thought of discarding him altogether.

72. Learned Counsel for the petitioner by reference to the ballot papers of Barka Baski, Paul Murmur, Dhan Singh Munia and Singh Rai Murmur [Exts. 11(b), 11(m), 11(p) and 11(r)] read with Exts. 4(c) and 4(e) has pointed out that though they were of the quota Smt. Jahanara under Ext. 2(e), they had cast their first preference to R. P. Jain and second preference to Jahanara. According to him, a perusal of the evidence of Jadunandan Murmur (R.W. 4) and respondent No. 1 (R.W. 13) will show that these four persons, namely, Barka Baski, Paul Murmur, Dhan Singh Munda and Singh Rai Murmur, were elected to the Bihar Legislative Assembly on the Jharkhand party ticket in 1962 and that all these Jharkhand party M.L.As. had merged with congress subsequently and that even after the exclusion of Sri Jaipal Singh from the ministry of Sri K. B. Sahay they continued to be attached to him (Jaipal Singh) and did not dis-associate from him. In this circumstance, there can be no sense in their casting their first preference to R. P. Jain and not to Jahanara (wife of Jaipal Singh) because there is no such case of the respondent that the relation of the two namely, Mr. Jaipal Singh and Mrs. Jaipal Singh were not good and the husband was not supporting her candidature or acting against her in this election. Moreover, their casting of second preference vote in her favour is indicative of the fact that they were attached to her and not against her. These facts, according to the Counsel, are surely indicative of foul game which must be by bribing them, on the part of the respondent No. 1 in securing their first preference vote against Jahanara in whose quota they were attached with mandate to cast first preference to her. No doubt Jain's getting their first preference over the head of Jahanara, who is the wife of their accerted leader Jaipal Singh, in the background of the party mandate to vote for her in the first preference is very doubtful and raises strong suspicion in one's mind about his having got their first preference by some underhand means which might have been by giving them money for the same because in ordinary course he had no other means to get them. It is, however, difficult to definitely conclude in favour of their bribery at the hands of respondent No. 1 in this behalf merely on this suspicion, because it is well settled that suspicion howsoever strong cannot be a substitute for legal proof. In the election petition, no specific case of corruption appears to have been set out against these M.L.As. Even their names have not been mentioned in the body of the election petition or in the schedule where the petitioner has given out the names of the M.L.A. voters whom respondent No. 1 is alleged to have bribed. There is only a general and vague allegation

about other M.L.A. voters in paragraph 21 of the election petition where it has been said that respondent No. 1 had secured votes of other candidates also by bribing them. In schedule 1 he has mentioned the names of only the M.L.A. voters of his quota and not that of any other candidate. He (petitioner) has not also led evidence to prove the allegation of bribery against any of these voters, namely, Barka Baksi and others. On these facts, it will not therefore be right to accept the alleged charge of bribery against them merely because on inspection of their ballot papers they have been found to have cast their first preference votes to R. P. Jain and next to Jahanara, though, as observed above, this no doubt raises strong suspicion in one's mind regarding preparation of some underhand dealing in this connection by respondent No. 1. For the same reasons, I find myself unable to hold with the petitioner's Counsel that the votes of congress M.L.A. Guru Ram Das, Sheogovind Ram (both of scheduled caste) and Punai Oraon (of scheduled tribe) found to have been cast in favour of R. P. Jain as disclosed by the inspection of their ballot papers Exts. 11(d), 11(w) and 11(k) was surely the result of their having been bribed by him (R. P. Jain) because the first two were of the quota of the congress candidate Brijkishore Pd. Singh and the third of the congress candidate Chaudhary A. Mohammad [vide Ext. 2(e) and 2(d)]. Like Barka Baksi and others they have not also been named in the election petition or the relevant schedule nor any specific allegation has been made in their name therein. Their case is also said to be covered by the aforesaid allegation in general and vague terms. Undoubtedly against them also sufficient suspicion arises in one's mind when they are found to have cast their first preference votes to R. P. Jain notwithstanding the party mandate to cast them in favour of the congress candidate concerned.

73. Learned Counsel for respondent No. 1 has vehemently argued that the so called mandate issued by the leader and the chief whip of the congress legislature party was wholly meaningless and was followed more in breach by the congress M.L.As. and as such the petitioner's case of bribery against the voters concerned based on such mandate is wholly without foundation and has got to be thrown out. According to him, this being a case of democratic election every voter, mandate or no mandate, was free to cast his vote whomever he liked and the petitioner's claim that they were his voters as they were included in his list prepared by the leader of the party is simply fantastic because by no stretch of imagination he could claim so. To support his argument regarding flouting of the mandate by the congress M.L.As., he has referred me to the 24 ballot papers, Ext. D, series, of the petitioner. As he has pointed out, in 14 of these ballots, namely, Exts. D(2) to D(8), D(11), D(16) and D(18) to D(22), all the six preferences have been cast in rotation as per that mandate. In the remaining 10, namely, Exts. D, D(1), D(9), D(10), D(12) to D(15), D(17) and D(23) there has been no following of the mandate except the case of the first preference which has been expressed in favour of the petitioner Sheel Bhadra Yajee. He has also pointed out that from scrutiny of some of these 10 ballots it will appear that the voters concerned have cast some of their preference in favour of candidates of their own caste unmindful of the party mandate which will prove his allegation that there is casteism in the congress legislature party. In this connection, he has referred to particularly to the ballots Ext. D(17) and D which are of Jadunandan Jha and Rajkumari Devi. In Ext. D(17) the second preference has been cast in favour of the independent candidate Jankinandan Singh who is of the same caste as this Jadunandan Jha, namely, Brahman. Similarly, in Ext. D the second preference has been given to Brijkishore Pd. Sinha who is of the same caste as Rajkumari Devi, namely, Bhumihar. He has also drawn my attention to the two ballots Exts. D(14) and D(15) of Lila Devi and Ramjatan Singh. In both of them the second and 4th preferences have been cast in favour of R. P. Jain and Jankinandan Singh both of whom were independent candidates. According to the Counsel, if the mandate had any meaning with the congress voters this Ramjatan Singh who was not only allotted to the quota of Sheel Bhadra Yajee but was also his election agent would not have thought of casting his second and 4th preferences to the independent candidates ignoring the party direction whipping him to vote only for the party candidates. On behalf of the respondent it has been urged by reference to Ext. 1 that it is clear from it that there were 2 competing congress parties in the State who made their own recommendations to the All India Congress Committee which were duly considered by the Central Parliamentary Board in making the final nominations of the candidates who were to be set up on behalf of the congress party to contest this election. This fact according to him clearly proved presence of groupism in the congress party at the State level. In my opinion, this contention cannot prevail. All that is shown by Ext. 1 is that there were joint recommendations of the President of the Bihar Pradesh Congress Adhoc Committee and the Bihar Congress legislature party which they had made separately. This may be due to their own opinion about the suitability of the

candidates whom they had recommended for selection. After all, there is always scope for honest difference of opinion between two bodies on such a point, and only because they sent up their separate lists in this behalf cannot prove that this was based on group lines or was the result of group rivalry in the organisation.

74. In my opinion, merely because some of the congress voters did not adhere to the mandate issued by the party as has been sought to be shown by reference to the aforesaid 10 ballots pertaining to the petitioner it cannot be said that it was meaningless. As shown above, the leader had issued such a mandate to them which he was competent to do. Even though some of them did not subsequently act up to it but it was there. It is not the case of the petitioner that this mandate had legal force for the voters concerned so that they were bound by it and could not vote otherwise. All that he seems to show on its basis is that the party had issued such a direction and in the usual course voters belonging and owing allegiance to the congress party having been elected to the Assembly on congress ticket were expected to adhere to it and vote accordingly, and once it has been found that it had been ignored by any of them some suspicious deal in the matter has got to be inferred which the person receiving vote against the mandate has got to explain satisfactorily. On consideration of all these facts, I find myself unable to uphold the contention of the respondent that the question of mandate, said to have been issued by the congress party to its voters, is of no consequence to the petitioner in respect of his allegation of bribery against any of the congress voters whose first preference has been found cast to him (respondent No. 1) and not to the petitioner. Similarly, the above fact regarding the casting of second preference by two voters, namely, Jadunandan Jha and Rajkumari Devi to candidates of their caste ignoring the mandate cannot by itself be a proof of the alleged prevailing casteism in the congress legislature party. These may be just sporadic instances in which their voting in favour of their own castemen might be regarded as the result of caste consciousness. But how on the basis of such one or two instances one would be justified in accepting the existence of general casteism in the congress legislature party as alleged by the respondent to establish which as my above discussion will show, no credible evidence or circumstances have been furnished by him.

75. On behalf of the petitioner, the allegation of groupism and casteism in the congress party has been emphatically denied on oath by his witnesses P.W. 2 (Aam Narain Chaudhary), P.W. 6 (Gaurishankar Das), P.W. 7 (Sah Mostaq Ahmad), P.W. 13 (Sakoor Ahmad) and P.W. 21 (petitioner). All these persons have been subjected to lengthy cross-examination on behalf of respondent No. 1 but nothing substantial appears to have been elicited in it on the strength of which their denial in this regard can be discarded.

76. Thus after having considered all the above evidence and circumstances, I have no hesitation in holding that the respondent has not been able to substantiate his allegation regarding the existence of groupism, casteism etc., as made in paragraph 1 of his additional written statement, which according to him had weighed with the congress M.L.As. concerned to cast their votes freely without any consideration of the party mandate issued to them in this behalf.

77. Coming to the direct evidence of the parties regarding the allegation of alleged bribery against these three M.L.As., namely, Chetu Ram, Jadunandan Murmur and Vidyakishore Vidyalkar, the petitioner has examined 3 witnesses, P.W. 12 (Satruhan Pd. Singh), P.W. 16 (Ramaballabh Tiwary) and P.W. 19 (Jogendra Pd. Singh). They are all said to be eye witnesses having seen the bribe being offered by R. P. Jain and accepted by these persons regarding their casting of first preference in his (R. P. Jain) favour. P.W. 12 has said about Chetu Ram while the other two, P.Ws. 16 and 19, have deposed about Jadunandan Murmur and Vidyakishore Vidyalkar, respectively. Besides their testimony, there is also the evidence of petitioner (P.W. 21) on this point wherein he has corroborated his having been informed by these persons about their such witnessing of the bribery.

78. P.W. 12 (Satruhan Pd. Singh) has pledged oath to say that he had come to Patna to meet Chetu Ram, M.L.A. on 25th March 1964 in his M.L.A. chamber at about 9 A.M. in connection with his personal work regarding mining lease but he (Chetu Ram) called him next day and accordingly he went to him on 26th March 1964 at about 9 A.M. and when he was still there, R. P. Jain accompanied with two others came to Chetu Ram; arriving there R. P. Jain addressing Chetu Ram uttered that though he had already come to him he required his one minute for some work upon which both of them, namely, R. P. Jain and Chetu Ram went into the other adjoining room which is inter-connected with

the first room by a door; he (P.W. 12) then saw that in that room R. P. Jain handed over some 100 rupee notes to Chetu Ram saying that he should show mercy to him and give him first preference and he (R. P. Jain) was doing to him this service for the present. R. P. Jain being in great hurry then left that place again reiterating to Chetu Ram that he must come and give first preference to him and then all the three went away. His evidence in this regard has been put to searching cross-examination by the other side, but nothing worth notice appears to have been found out so as to discard his testimony about this point. He has given a detailed description of the flat of Chetu Ram where he had met him and they have not been challenged to be incorrect by Chetu Ram in his evidence. There is nothing to show that even if he (P.W. 12) was there he could not see the alleged deal between the two (R. P. Jain and Chetu Ram) in the other inter connected room. He (P.W. 12) has no doubt admitted in his evidence that he is a congress worker and that he is known to the petitioner Sheel Bhadra Yajee for about 20 years past but that by itself can be no ground to discard his evidence as being interested because it has to be judged on its merit. As I have observed above, nothing has been elicited in his fairly lengthy cross-examination to throw doubt on the veracity of his testimony in this behalf. It has been urged for the respondent that the lease concerning which he is said to have come to Chetu Ram, according to his own admission, related to atomic mineral like lacryl and uranium and it is well known that their lease is purely concern of the Central Government so that Chetu Ram could not be helpful to him about it at the State stage. He (P.W. 12) has clearly given out in his evidence that though the lease regarding these minerals is finally settled by the Centre but it is done on the recommendation of the State Government, and evidence has not been produced to disprove this suggestion. So the matter had first to be tackled at the State level. It has next been urged that as he has said to have disclosed about this fact of bribery to Sheel Bhadra Yajee at Ranchi towards the end of July 1964. When that was so, how could the petitioner allege about this fact with date and place in his election petition which he had filed in April, 1964. This is, however, explained when the evidence of the petitioner (P.W. 21) is looked into where he has said that on 26th March 1964 his election agent Ramjatan Singh had told him that he had been informed by Satruhan Pd. Singh that he (Satruhan) had seen Chetu Ram accepting bribe from R. P. Jain to cast his first preference vote to him and when he (P.W. 21) met him (Satruhan) at Ranchi in July, 1964 the latter confirmed his having seen Chetu Ram doing like that and also having informed Ramjatan Singh about it earlier. Ramjatan Singh (P.W. 20) has corroborated this fact by saying that on 26th March 1964 Satruhan had told him that morning when he had been to the place of Chetu Ram he had found R. P. Jain giving money to Chetu Ram uttering that he (Chetu Ram) should give first preference vote to him (R. P. Jain). By reference to the ordersheet, Exts. N(3) dated 26th March 1964 and N(2) dated 6th July 1964 and certain statement of his (P.W. 12) where he has said to be not fully remembering about these cases it has been argued that he is nothing but a liar and his evidence has got to be thrown out as untruthful. In this connection it is further urged that on 26th March 1964 he must be at Hazaribagh as disclosed by Ext. N(3). As the facts stand about these points, it is not possible to dub him as a liar merely on these materials. They do not show that he was really at Hazaribagh on 26th March 1964. It is also possible that he may not be fully remembering these details when he was being examined, or it might be that he was deliberately trying to avoid divulging them in court under the impression that they might damage his image being a business man. Since his evidence about his having witnessed the giving and taking of money between R. P. Jain and Chetu Ram has not been shaken in cross-examination it cannot be given the certificate of falsehood merely on the basis of those materials. I would therefore accept his evidence in this behalf as it has been given.

79. No doubt, R. P. Jain (R.W. 13) and his election agent Bishwanath Verma (R.W. 10) have examined themselves to deny their having ever approached Chetu Ram on 26th March 1964 or any other date or offered bribe requesting to get his first preference vote. Chetu Ram has also examined himself as (R.W. 8) and denied all these facts including that of his having called this Satruhan Pd. in connection with anything on that day or ever. He has also filed an affidavit Ext. J(2) along with vakalatnama Ext. K(1) through the Advocate (R.W.) making denial of these allegations. It is, however, not possible to attach much importance to their denials because they are only natural in the circumstances. The respondent's contention that if he was to offer bribe to him or any other M.L.A. voter there was no sense in his carrying two other persons, namely, Biswanath Verma and S. R. Dutta with him as he could not be expected to take them to witness the crime that he was going to commit with the M.L.As. concerned, does not appear to have much merit. As shown above R. P. Jain was

almost a stranger to this place and had appeared in the election field for the first time only some days before the election. As such it was natural for him to seek the assistance of some local men through whom he could go and meet the voters. Evidence has been led to show that S. R. Dutt is an employee in the Life Insurance Corporation at Patna and was known to the politicians. Similarly, Bishwanath Verma was also known to the politicians having been living at Patna from much before. In such circumstances his (R. P. Jain) requisitioning their services in this matter cannot be regarded as an absurdity.

80. P.W. 16, Ramballabh Tiwary, has said that he is acquainted with Jadunandan Murmur, M.L.A. for the last 2 or 3 years because he (Murmur) is known to Ramlakhan Pandey M.L.A. and always comes to him. His (P.W. 16) further statement is that whenever he comes to Patna he stays with Ramlakhan Pandey in his chamber No. 13 on the Gardinar road; he had come to Patna 5 or 6 days before 20th March 1964 and was staying with Ramlakhan Pandey; on 25th March 1964 at 3 P.M. he was sitting at the place of Ramlakhan Pandey when Murmur came there in search of Pandey but he was not there at that time; he (P.W. 16) made Murmur sit and after 5 or 7 minutes both of them, namely, P.W. 16 and Murmur left that place and went together to Murmur's flat where they sat to take tea and when he was still there at about 5.30 P.M. three persons came one of whom was R. P. Jain he has identified him in court; R. P. Jain asked Murmur as to who P.W. 16 was and on being informed that he was his (Murmur) friend and he (R. P. Jain) should come in, the latter came and told him (Murmur) that he had already talked to him and saying so he (R. P. Jain) took out from his pocket some 100 rupee notes which might be about 20 to 25 and making them over to Murmur asked him to accept it and he would talk further next day and that he (Murmur) should remember his first preference and should come to vote in the first hours; thereafter R. P. Jain along with his two companions got out of the room and went away. His statement further is that on 27th March 1964 there was a meeting of the Bihar Youth Congress at Sadaquat Ashram which he attended as a member of its executive committee and in that meeting he declared about this bribery of Murmur and had disclosed about it to Yajee 5 or 6 days after 25th March 1964 when he returned to Patna after having left on 26th March 1964. By reference to the proceedings of the meeting dated 25th March 1964 (Ext. F) it has been shown that that meeting was presided over by this petitioner Sheel Bhadra Yajee and attended by Ramballabh Tiwary which will show that they are intimately connected to each other through this organisation. It has further been pointed out that though he (P.W. 16) has said that he was not interested in the election of the petitioner but from the evidence of Madan Mohan Chaudhary (P.W. 3) it will appear that in the meeting held on 27th March 1964 it was decided that 5 members of the Bihar Youth Congress including this Ramballabh Tiwary should start fasting regarding the defeat of Yajee making demand without fulfilment of which they should continue their fast. This fact according to respondent's Counsel proves beyond every doubt that his (P.W. 16) statement about his being not interested in the election of Yajee is nothing but tissue of falsehood. All these admitted facts, according to the Counsel, will show that he (P.W. 16) is wholly a man of the camp of Yajee and was vitally interested in his success in this election and as such it is absurd to think that in his presence he (Murmur) would have dared to accept the money from R. P. Jain as that was fraught with the risk of being divulged by P.W. 16 immediately. For these reasons, his testimony on this point should be rejected as wholly unbelievable having been made to support the false case of the petitioner.

81. No doubt, on the above facts he (P.W. 16) would appear to be connected with the petitioner through the Bihar Youth Congress and in that way he may be regarded as a partisan witness. But that by itself can not be a sufficient ground to discard his sworn testimony given before the court, even though there is no other direct evidence to corroborate the story given out by him about this alleged bribery. Evidence given by him in this behalf appears to have been fully tested by the other side who has subjected him to sufficient cross-examination but nothing useful appears to have been gained therein to discredit him. No doubt, in the normal course Murmur might not be expected to accept the money from R. P. Jain in his (P.W. 16) presence but it cannot be treated as an impossibility. After all, it is such lapses on the part of a guilty person that discloses the crime. So, it cannot be said that it was wholly impossible on the part of Murmur to have accepted the money from R. P. Jain in that condition to which he (P.W. 16) has testified in unequivocal terms because it might not have struck him that the matter would come to such a pass in that Yajee would be defeated and an election petition would be filed by him calling in question all those facts. Admitted non-disclosure of this incident by P.W. 16 on the 25th March 1964 and 26th March 1964 to others is also not an absurdity. It is probable that he might not have

thought it in terms of Yajee defeat on those two days unless the result was out in the evening on 26th March 1964 and next day he admits to have disclosed it in the meeting held at about noon. The denial made by Jadunandan Murmur during his evidence as R.W. 4 and also his affidavit with Vakalatnama Exts. J(1) and K filed denying these facts as also the denial of R. P. Jain (R.W. 13) and Bishwanath Verma (R.W. 10) regarding their having ever approached Jadunandan Murmur on 25th March 1964 or on any date and offering him money cannot be given much weight to disprove the allegations in this behalf because such denial on their part is only natural. On a consideration of all these facts and circumstances, I am of the view that the testimony of P.W. 16 in this behalf is worthy of credit and is therefore accepted as true.

82. Jogendra Pd. Singh (P.W. 19), who is an Under-graduate, says that he knows Vidyakishore Vidyalkar since long who is a good literaturist and being himself a *Sahityik* they are known to each other; whenever he came to Patna he stayed with Vidyakishore Vidyalkar in his M.L.A. flat; 2 to 4 days before 26th March 1964 he had come to Patna and was staying with Vidyakishore in his flat and at about 8 A.M. on 24th March 1964 R. P. Jain, whom he has identified in court, accompanied with two other persons came to the flat of Vidyakishore and as soon as he came out of the bath-room he saw R. P. Jain handing over 100 rupee notes to Vidyakishore saying that he should see that there was no *Dhokha* and he should cast his first preference vote to him. His further statement is that he had seen a leather bag in which a card was attached with the name of R. P. Jain printed in it on the Chowki which he (R. P. Jain) picked up and took away after paying the money to Vidyakishore Vidyalkar. He admits that he had not disclosed about this incident to any other person till June or July, 1964 when he met Sheel Bhadra Yajee at the Bukhtiarpur railway station and told him about it and also the talks that had passed between the two i.e. R. P. Jain and Vidyakishore Vidyalkar on that occasion. He has given out that he met Vidyakishore Vidyalkar for the first time in 1962 after his election to the Assembly through his relation Rajendra Pratap Singh who is also an M.L.A. to whose place Vidyakishore always used to go. He has been cross-examined at length about the details of the configuration of this flat and also on the points regarding the place wherefrom he had seen the alleged passing of money etc. He has given out all these details and there is nothing convincing on the record on the basis of which his answers in these regards can be disbelieved so as to create doubts against reliability of evidence. As he says, he returned back home which is in a village on 24th March 1964. As such it is not improbable that he did not get opportunity thereafter till the above occasion in June or July 1964 to disclose about this fact to any one else. There is no sufficient material on record to show that he is interested in the petitioner so as to think of coming to depose falsely on his behalf in this case. The mere fact that he is a resident of the village within the same P.S. from which the petitioner comes cannot. I think, be regarded as sufficient to infer his interestedness in the petitioner to the length of deposing falsely for him. His evidence in this behalf has been put to the test of cross-examination and he appears to have stood it. No doubt, Vidyakishore Vidyalkar who has examined himself as R.W. 7 on behalf of respondent No. 1 has denied the above allegation against him and has also filed affidavit with Vakalatnama Exts. J(3) and K(2) denying these allegations. Similarly, R. P. Jain and Bishwanath Verma (R.Ws. 13 and 10) have also denied the allegation made against them regarding their going to the place of Vidyakishore and former offering money to the latter with the aforesaid requests. Such denial on their part is, however, only a normal feature in the circumstances and much importance can be attached to them to disbelieve the testimony of P.W. 19 on this point. After considering all the facts I consider his (P.W. 19) evidence in this behalf as worthy of reliance.

83. The direct evidence of the above three witnesses, namely, P.Ws. 12, 16 and 19 to support the petitioner's allegation of bribery against three persons, namely, Chetu Ram, Jadunandan Murmur and Vidyakishore Vidyalkar whose certain parts have also been supported by the evidence of the petitioner (P.W. 21) have been fully corroborated by the aforesaid convincing circumstances like casting of their first preference votes to him (R. P. Jain) who was almost a stranger to this State having no political or social background, notwithstanding the party mandate to caste their votes in favour of their party's candidates without any reasonable excuse. A careful consideration of all these facts and circumstances lead to the irresistible conclusion that the votes of these three persons had been purchased by R. P. Jain by bribing them in the manner alleged by the petitioner. This point is accordingly decided.

84. Now I pass on to the next allegation of corrupt practice of the petitioner, namely, that R. P. Jain had offered bribe to some of the voters to secure their votes in his favour. His case on this point is set out in paragraph 22 read with

schedule II of the election petition. In this schedule he has given the names of 10 M.L.As. who according to him had been approached with bribe by R. P. Jain and his men for securing their votes in his (R. P. Jain) favour. When the election petition was filed this schedule contained only 5 names and the rest 5 were subsequently added by means of an amendment petition which was allowed by the Tribunal. Of these 10 names, however, petitioner has led evidence only regarding four, namely, Ram Narain Chaudhary, Sah Mostaque Ahmad, Prabhatkumar Adityadeo and Ramjatan Singh and has not adduced any evidence to substantiate his allegation against the rest six. Evidently, therefore, the cases of only these four persons are required to be considered.

85. So far as Ram Narain Chaudhary is concerned, the petitioner's evidence consists of his (Ram Narain Chaudhary) testimony as P.W. 2 and that of Sheodeo Singh and Manoranjan Pd. Singh (P. Ws. 9 and 14) and also the petitioner (P.W. 21).

86. Ram Narain Chaudhary (P.W. 2) who is at present an M.L.A. having been elected in 1962 and had also been elected to the Bihar Assembly in the general elections of 1952 and 1957 and is also an advocate enrolled in the Patna High Court has pledged oath to say that this Rajendra Pd. Jain accompanied with Bishwanath Verma and one Dutt whose full name he did not know had come to his flat on 26th March, 1964 at about 7 A.M.; at that time one Sheodeo Singh, M.A. who is a research student in the Patna University, and one Manoranjan Pd. Singh, who is in service in the Patna Improvement Trust and also prosecutes his studies in the Intermediate class privately, both belonging to his constituency were also staying with him; he was then taking his breakfast when these persons Sheodeo Singh and Manoranjan informed about the arrival of these three persons and he called all the three to his room where Bishwanath Verma introduced Rajendra Pd. Jain to him as a candidate for the Rajya Sabha election on which he (P.W. 2) told him that he knew about this fact from before; thereafter Jain Sahab told him (P.W. 2) that he was a candidate for the Rajya Sabha and was in need of his (P.W. 2) help on which he told him that what could he expected from him who was a congress M.L.A. whereupon he (R. P. Jain) told him that he (P.W. 2) must have incurred expenses during his election and he (R. P. Jain) wanted to do some service to him and he should help him in the election; hearing this talk of R. P. Jain he (P.W. 2) retorted to Bishwanath Verma saying that he knew him (P.W. 2) from much before and that he (P.W. 2) was made up of another stuff even than why they were talking to him in terms of money; seeing this attitude of his (P.W. 2) R. P. Jain apologised to him and all the three went away. He has further stated that he was a Senator in the Bihar University for two terms of three years each from 1952 to 1957 during the time when late Shyam Nandan Sahay was its Vice-Chancellor and he used to visit the place of Sri Sahay which was close to his flat and in this way he knew Bishwanath Verma since that time as he (Verma) was found in the company of Sri Sahay on several occasions. His (P.W. 2) statement also is that he had disclosed about this approach of R. P. Jain to Sheel Bhadra Yajee on 26th March, 1964 after the election result was out. He has further said that on the next day after the declaration of the result of this election he had disclosed about this approach of R. P. Jain to Chief Whip Sakoor Ahmad which disclosure was oral and not in writing. As he has said Sheodeo Pd. Singh had begun to live in his flat six months before 26th March, 1964 and Manoranjan Singh from about a year before 26th March, 1964 not as his tenant but as his guests. He has further said that he had seen this R. P. Jain before 26th March, 1964 after he had filed the nomination paper for this election but had not met him before 26th March, 1964. According to him, this Bishwanath Verma was working as stenographer of Sri Shyam Nandan Sahay when he was Vice-Chancellor and he (P.W. 2) had the advantage of acquaintance with him (Verma) as he used to come to him often to take him to the place of Sri Sahay in connection with the University affairs as a Senator and even after the death of Sri Sahay which took place sometime in 1957 he used to meet him (Verma) in the Assembly house and exchange greetings and questions regarding welfare of each other.

87. The testimony of P.W. 2 in this behalf appears to have been subjected to very severe cross-examination by the other side. But as it appears, no contradiction of any substantial nature has been elicited on whose basis the Tribunal can think of disbelieving him on this point. As I have shown above, he is a man of position having been elected member of the State Legislature thrice, University Senator for two terms besides being an enrolled Advocate. There is nothing on record to show any intimacy between him and the petitioner due to which he can be said to have thought of coming into the witness box in his behalf to substantiate his false story

to aid his (petitioner) success in this case. The above statement about the arrival of R. P. Jain and his party on 26th March, 1964 at his flat has been fully corroborated by the aforesaid two persons Sheodeo Singh (P.W. 9) and Manoranjan Singh (P.W. 14). As they have said they were living in this flat with him (P.W. 2) from before that date and on that date when they had just got up these three persons arrived and they informed Ram Narain Chaudhary who was taking his breakfast in the other room and under his direction they escorted them to that room where they remained for about 10 minutes and then went away. They have further said that after they came out of the room Ram Narain Chaudhary also came out with them and went with them upto about the gate and coming to them (P.Ws. 9 and 14) he (P.W. 2) told them in somewhat agitated mood that these capitalists had come to purchase him upon which they (P.Ws. 9 & 14) asked him who they were; when he told them that one was R. P. Jain and the other was Verma. As it appears, P.W. 9 (Sheodeo) is a co-villager of Ram Narain Chaudhary and P.W. 14 (Manoranjan) is a man of his constituency. So their living with Ram Narain Chaudhary in his flat cannot be said to be an improbability. Moreover, this fact, as shown above, has been admitted by Ram Narain Chaudhary himself. In their (P.Ws. 9 and 14) evidence also there is no material to show that they are interested in the petitioner so as to think of coming to depose falsely on his behalf. The mere fact that all these persons (P.Ws. 2, 9 and 14) are of the same caste as the petitioner can be no convincing ground to think that they are his partisan witnesses and he has managed to secure their evidence anyhow to support his case. As it appears, these three witnesses come from a district other than that of the petitioner and there is no material to prove that they are his friends or relation. It has been pointed out for the respondent that though the petitioner's first list of witnesses 24 in number was filed on 24th September, 1964 but he did not include the names of these two persons (P.Ws. 9 and 14) though Ram Narain Chaudhary was mentioned therein. This omission, according to the respondents, was an impossibility if they were really genuine witnesses because as P.W. 2 (Ram Narain Chaudhary) has said, he had disclosed their names to Yajee before September, 1964. As it appears the names of P.Ws. 9 and 14 were mentioned in his second list of witnesses which was filed on 18th November, 1964. Though the hearing of the election case was formally opened on 28th November, 1964 but the evidence actually started on 30th November, 1964. From this it will appear that their names as witnesses of the petitioner were furnished to the Tribunal before the date of actual hearing. In such circumstances, merely because their names were not included in the first list of witnesses filed by the petitioner cannot I think give rise to a presumption against their genuineness. As shown above they were included in the second list which was filed before the commencement of the hearing. So far as the respondent's list of witnesses is concerned it may be mentioned that he did not furnish any such list before 30th November, 1964 on which date the taking of evidence in the case actually began.

88. The above statement of P.W. 2 (Ram Narain Chaudhary) about his having told the Chief Whip Sakoor Ahmad regarding this approach of R. P. Jain is corroborated by him (Sakoor Ahmad, P.W. 13). He has admitted that on 27th March, 1964 Ram Narain Chaudhary had told him that in this election much money has been spent and he (P.W. 2) had also been approached with money by R. P. Jain in this connection. Similarly, the petitioner (P.W. 21) has also corroborated the above statement of P.W. 2 (Ram Narain Chaudhary) but on 26th March, 1964 after the election result was declared he (P.W. 2) had informed him (P.W. 21) that he had been approached in the morning that date by R. P. Jain with money to accept it and cast his vote in Jain's favour. He (P.W. 21) has further said that he had also learnt that Jain had gone there accompanied by two other persons and at that time two persons Sheodeo Singh and Manoranjan Singh were also living with Ram Narain Chaudhary in his flat and that he had verified these facts later from Manoranjan and Sheodeo. On behalf of the respondent, Budhnath M.L.A. (R.W. 6) who was admittedly a proposer of the name of R. P. Jain in this election and lives in flat No. 44 which is in the same block as flat No. 42 of Ram Narain Chaudhary, has been examined to deny living of these two persons Sheodeo Singh and Manoranjan Singh in this flat at that time. His denial in this behalf is, however, of not any material consequence because as a close scrutiny of his evidence will show he is not fully competent to throw definite light on this point. Similarly, the denial of R. P. Jain and Bishwanath Verma (P.Ws. 13 and 10) about their such approach to Ram Narain Chaudhary on 26th March, 1964 or on any other date cannot be attached such importance to disbelieve the testimony of Ram Narain Chaudhary supporting this story which has been fully corroborated by the other two witnesses (P.Ws. 9 and 14) who were then living in this flat and assert to have escorted this party into the room of

Ram Narain Chaudhary and also supported by P.W. 13 (Sakoor Ahmed) and petitioner (P.W. 21) to whom Ram Narain Chaudhary had disclosed about this approach soon thereafter.

89. Thus on the basis of the above evidence of trustworthy nature I accept the petitioner's allegations against R. P. Jain in this regard and hold that he (R. P. Jain) had in fact gone and offered money to the voter Ram Narain Chaudhary M.L.A. to secure his vote in his favour.

90. Coming to the case of Shah Mostaque Ahmad, the petitioner's evidence in support of it consist of the testimony of Mostaque Ahmad himself (P.W. 7) supported by Matiur Rahman (P.W. 11) and also the petitioner (P.W. 21).

91. P.W. 7 (Mostaque Ahmed) who is at present M.L.A. since 1962 and had also been elected as M.L.A. in 1957 has stated on oath that S. R. Dutt who holds employment in the Life Insurance Corporation and is resident of mohalla Mithapur, Patna, is known him for the last 10 years; 2 days before the actual poll this S. R. Dutt along with the candidate R. P. Jain and another black complexioned man whose name he did not know came to his place when he was sitting along with his relation Matiur Rahman who is the Editor of the Urdu Weekly Roshani; after introducing Jain to him; S. R. Dutt told him that he had brought Jain and he (P.W. 7) should cast his first preference vote in his favour on which he informed Dutt that he had come to a wrong place and should not say so, to him; then Jain told him (P.W. 7) that he must have spent a lot in his election and as such he (P.W. 7) should accept money from him (Jain) and give him his first preference on which he rebuked Jain and asked him to return back with his money whereupon they left his place and went away; while going away Dutt uttered that he was sorry for the trouble that this had caused to him (P.W. 7) but his desire was to get him helped. His further statement is that he had disclosed about this incident to Chaudhary A. Mohd. on 25th March, 1964 in the Assembly premises. He has also said that about 8 or 10 days after the result of this election was out, he had confirmed it also to yajee when he asked him about this incident saying that he had been told about it by Choudhary A. Mahamad. As he (P.W. 7) has further said, his house where he was approached in this way is by the side of the office of the above Matiur Rahman who is his relation and often comes to his place and they chat together; on their arrival at his place S. R. Dutt told him that he had to talk something special to him on which he asked Matiur Rahman who was sitting there with him in the room from before to go out on the verandah whereupon he (Rahman) did likewise and there they all talked for about 5 minutes in the room. The veracity of these evidence of P.W. 7 have been subjected to the test of severe cross-examination but as it appears they have successfully stood that test. Merely because he (P.W. 7) admits to have signed as proposer or seconder on the nomination paper of this petitioner can be no ground to discard his evidence given on oath, specially when it has not been shaken in cross-examination. As his statement is, he had also signed as proposer or seconder on two or 3 other such nomination papers. So this was perhaps a routine affair and does not necessarily show his special interest in the petitioner.

92. All his above statements are fully corroborated by Matiur Rahman (P.W. 11) who is an Editor of Urdu Weekly Roshani. As he has said, he is a relation of Mostaque Ahmed and his office is situated at the back of his (P.W. 7) house where he always goes; on that day i.e., 24th March, 1964 between 5 to 6 P.M. he was sitting there with Mustaq Ahmed and discussing regarding his sister's marriage when R. P. Jain accompanied with two other persons of whom he was recognising Dutta Sahib came; he (Dutt) told Mostaque that he had to talk some thing special to him on which he (Mostaque) asked him (P.W. 11) to go out of the room; he did so and standing on the adjoining verandah overheard the talks that took place between them inside the room during which Jain Sahib offered to pay him money so they had to spend a lot in fighting their election and that he (Mostaque) should give his vote to him. He has further said that when they went away Mostaque informed him that they had come to purchase his vote but they did not know that they had come to a wrong place and his vote would never be available to him. His (P.W. 11) statement further is that he has been working as journalist since 1949 and in that capacity he tries to know some of the political parties, and that before 24th March, 1964 he had seen this Dutt and not the other two who had came with him (Dutt) on that occasion. He (P.W. 11) has been subjected to lengthy cross-examination and nothing worth notice appears to have come out therein to discard his sworn testimony in this behalf. There is nothing to show that he is interested in the petitioner so as to think in terms of giving false evidence to support him in this case. It has been urged for

the respondent that if there was any truth in this story and he (P.W. 11) had really witnessed it as he asserts to have done, as a journalist he would have never failed to publish it in his newspaper because this was, without any doubt, a first class news for his newspaper. In my opinion, merely because of such omission his evidence in this behalf cannot be disbelieved. He might have more than one reason not to give it publicity.

93. Petitioner (P.W. 21) has also stated that he had been informed by Shah Mostaque Ahmed that he had been approached by R. P. Jain to accept money to meet the expenses that he had incurred in his election and cast his first preference vote to him (R. P. Jain), and that in the month of October or November, 1964 when he met him (Mostaque) he told him that when R. P. Jain had come to his place with that proposal and Matiur Rahman was also at his place which fact on verification was also confirmed by him (Matiur Rahman). It has been pointed out for the respondent that this story of verification from Matiur Rahman stands self condemned when his (Matiur Rahman P.W. 11) admission in his cross-examination that he had mentioned about his hearing of the talks between R. P. Jain and Mostaque Ahmad to one Anwar Zaidi and had not said about it to Sheel Bhadra Yajee is taken into consideration. No doubt these statements are apparently contradictory but on its basis alone it is difficult to disbelieve the petitioner's case in this behalf because this contradiction might be the result of lapse of memory or some confusion on the part of either of them as they have deposed on this point more than a year after the incident.

94. It has been further argued that he (P.W. 11) is a witness of necessity as his name was not included in the first list of witnesses filed on 24th September 1964 by the petitioner but it was mentioned in the second list dated 18th November 1964 while dealing with the respondent's criticism in this behalf regarding other witnesses. I have already shown that this is not so important and cannot be used as a circumstance to discredit their testimony the P.Ws. concerned on this score. His (P.W. 11) name as a witness of the petitioner was in fact furnished to the Tribunal before hearing of the case actually commenced.

95. As usual Bishwanath Verma and R. P. Jain (R.Ws. 10 and 13) have denied in court to have ever been to the place of Mostaque Ahmed as alleged with any suggestion that he should accept money and cast his first preference vote in his R. P. Jain's favour. I am, however, unable to attach any undue weight to this denial because in a case of this nature they are bound to assert so which it is not at all difficult for them to do.

96. On consideration of the above evidence of convincing nature adduced on behalf of the petitioner, I feel inclined to accept his allegation about R. P. Jain's approach to Mostaque Ahmed and offer of bribe with a view to secure his first preference vote in his favour, and I hold accordingly.

97. Then comes the case of Prabhat Kumar Adityadeo who is said to have similarly been offered bribe by R. P. Jain for getting his vote. The petitioner's direct evidence on this point consists of the sworn testimony of Prahat Kumar Adityadeo (P.W. 15). As his evidence shows, he was elected to the Bihar Assembly in 1962 on the Swatantra party ticket from Chandil constituency in the district of Singhbhum. It also appears that before vesting of Zamindari in the Government he was the proprietor of Patkum Estate in the Singhbhum District. According to him (P.W. 15), R. P. Jain (whom he has identified in court) had been to his flat on 24th March 1964 at about 9 A.M. accompanied with two other persons; when they came the door of his flat was closed and on hearing the knock he opened it and saw them when R. P. Jain, whom he (P.W. 15) had seen and known as independent candidate about 2 days before 24th March 1964 in the Assembly premises where he (R. P. Jain) had gone to file nomination for this election, introduced himself to him; R. P. Jain also introduced his two companions to him giving out their name as some Verma and some Dutt; he then took all the three inside the room and made them sit where after R. P. Jain told him that he had come to him for his vote upon which he told him that how could he vote for him when two candidates of his own party, namely, Swatantra party has been set up and so he would vote for him whereupon R. P. Jain uttered that he (P.W. 15) must have incurred expenses in his own election and as such he should accept some money from him (R. P. Jain) towards those expenses and help him with his (P.W. 15) vote so that both of them could be helped in that way. His further statement is that on hearing this suggestion from R. P. Jain he (P.W. 15) told him that his mission was evidently to purchase his vote on which R. P. Jain apologised and said that his intention was only to help him (R.W. 15) and then he told him (R. P. Jain) that whatever money he wanted to pay to him more than 5 times that he (P.W. 15) had already spent in charity on which this Jain Saheb

again apologised and said that he came with fervent hope to get his first preference vote on which he (P.W. 15) rebuked him saying that along with hope he had also brought money; after this Jain and his party left that place and while going away R. P. Jain requested him (P.W. 15) to remember his candidature. His further evidence is that about this approach of R. P. Jain and offer of bribe he had told some of his friends on 25th March 1964 and had also informed petitioner Yajec on 15th August 1964 when he had met him in the Patna Gandhi Maidan where he (P.W. 15) had come to attend the Independence Day celebrations. His statement about such disclosure to Yajee on 15th August 1964 has been corroborated by the latter (P.W. 21) where he has said that on 15th August, 1964 when he met Prabhat Kumar Adityadeo in the Patna Gandhi Maidan on the occasion of the Independence Day celebrations he (P.W. 15) informed him that Jain Saheb along with two others had come to him and asked him to accept money from him to meet the costs that he had incurred in his election and cast his first preference vote in his (Jain) favour.

98. As I have shown above he (P.W. 15) is an M.L.A. of another party and comes from another district. There is nothing to prove his interestedness in the petitioner. As such it is not easily believable that being a man of position and responsibility he would think of coming to the witness box to depose falsely for the petitioner without caring for the risk that this step involved. If his evidence in court is ultimately held to be false that would make him vulnerable to prosecution for perjury which may mean blasting of his reputation and career. I do not think that a man in his position would think of taking the risk of figuring as a false witness for the petitioner for no ostensible gain. He (P.W. 15) has emphatically denied the suggestion that he was not at Patna on 15th August, 1964 and his statements regarding his passing of this news to Yajee in the Gandhi Maidan on that day is false. According to him the Assembly session had been adjourned one or two days before 15th August, 1964, but he left Patna for his home 7 or 8 days after that adjournment and that he had submitted his T.A. bills for both journey to and from Patna about that sitting. He has, however, expressed his inability to say, even approximately, the date of his return from Patna on that occasion. A suggestion has been made to him by respondent that he had left Patna for his home by car in the morning of 13th August, 1964. In reply he has said that he does not remember it. The argument that this non-rememberance is pretence as he had actually left Patna on 13th August, 1964 (morning) cannot be accepted at its face. Such an inability on his part is not improbable when the time lag between that date and his evidence here is taken into consideration. No convincing evidence has been furnished on behalf of respondent to substantiate this allegation re. his having actually left Patna on 13th August, 1964. In this circumstances, it is difficult to rely upon it as correct.

99. It has been pointed out to respondent No. 1 that the last date for filing nominations in this election was 11th March 1964 and he had filed his nomination papers Exts. G(4), G(5) and G(6) on 10th March 1964. From this it will be evident that his (P.W. 15) above statement regarding his having met him (Jain) about two days before 24th March 1964 in the Assembly premises when he had come to file his nomination regarding this election is nothing but false. No doubt, reading it in the context of the above facts showing filing of his nomination paper on 10th March 1964 it cannot be accepted that R. P. Jain would have come to file his nomination paper two days before 24th March 1964. But it might be his (P.W. 15) own guess that his arrival there on that occasion was to file his nomination. This does not, however, do away with the possibility of his (R. P. Jain) arrival in the Assembly premises on that day i.e. 2 days before 24th March 1964 because having already filed his nomination paper for his election it was only natural for him to move about in such area in connection with his election propaganda. In fact R. P. Jain (P.W. 13) has admitted in his evidence that he used to move about and meet M. L. As. in the Assembly premises regarding this election and canvass for the votes. It has been next urged that his name (P.W. 15) was not included in schedule II of the election petition when it was initially filed on 24th April 1964 but was included in the schedule along with 4 other names subsequently when the petitioner moved for amendment of the list on 1st October 1964 though in the amended schedule the date of offer of bribe to him (P.W. 15) was shown as 24th March 1964. On the basis of these facts learned Counsel for the respondent has submitted that he (P.W. 15) is nothing but a gotup witness whose name was purposely introduced into the picture subsequently by the petitioner after he became sure that he would come to oblige him in the case. I am, however, unable to uphold this criticism. As pointed out above, his (P.W. 15) specific statement is that he had informed the petitioner about this approach of Jain to him for the first time on 15th August 1964 when he met him in the Gandhi Maidan in connection with Independence Day celebrations which statement as pointed above has also been corroborated by the petitioner (P.W. 21). In this background there can be no

question of the petitioner incorporating his name in the relevant schedule of the election petition filed on 24th April 1964. It is possible that the date of his alleged approach as 24th March 1964 as mentioned by the petitioner in his amendment petition was based upon the knowledge that he derived from him (P.W. 15). As such the mentioning of this date i.e. 24th March 1964 as the date of the alleged offer of bribe by the petitioner in his amendment petition would not appear to militate against his case in this behalf. It has also been said that it is astonishing to find that he (P.W. 15) does not remember the names of his friends to whom he admits to have disclosed this incident on 24th March 1964. This feigned ignorance on his part, according to the respondent, is clear indication of his guilty mind. It is difficult to accept this contention. His evidence in court took place almost 9 months after his alleged disclosure to them. So it is no wonder that he may not be remembering their names now. It has also been alleged by the respondent that he has come to depose falsely for the petitioner at the instance of one Birendra Kumar Roy who according to his own admission lives in the flat opposite to this flat and who is interested in the petitioner as the latter had made out a case that he had received certain information from the witness Struhan Singh at his place in Ranchi. There seems no material worthy of credit on record on whose basis it can be believed that Birendra Kumar Roy is interested in the petitioner and has managed to get him (P.W. 15) in the witness box to support the false claim of the petitioner. It is very difficult to believe that even if this Birendra Kumar Roy is interested in the petitioner he would be able to prevail upon him (P.W. 15) who as shown above is a man of position and responsibility to come to depose falsely for the petitioner being delivious to the risk that this step involves in it.

100. No doubt there is no other direct evidence to corroborate his (P.W. 15) testimony given in this behalf, but that by itself cannot be sufficient to discard his evidence which has stood the test of cross-examination fully. It is not necessary under hours that any and every evidence unless it is corroborated should be discarded as untruthful. An uncorroborated testimony can be believed if it is considered reliable on next. As a perusal of his whole evidence shows, he has made constant and convincing statement and is to be treated as an independent witness and his evidence inspire confidence. As in other cases, R. P. Jain and Bishwanath Verma (R.Ws. 13 and 10) have come forward to deny this allegation asserting that they had never been to him (P.W. 15) on the above date or on any other date, nor there was ever any offer of money to him with a request for his vote in his (Jain) favour. I do not, however, feel inclined to rely upon this denial for the same reason for which I had discarded their denial during my above discussion in respect of other allegations.

101. After having taken into consideration all the facts and circumstances, I have therefore no hesitation in my mind to accept the evidence of this witness (P.W. 15) as worthy of credit, and acting on it I believe the petitioner's case that he (P.W. 15) had been approached by R. P. Jain with offer of bribe to secure his first preference vote.

102. Coming to the case of Ramjatan Singh who is also alleged to have been approached by R. P. Jain with money to secure his vote, petitioner's evidences on this point consist of the testimony of Ramjatan Singh (P.W. 20) and his son Ram Mohan Singh who is a practising Advocate (P.W. 18) besides the petitioner, P.W. 21, himself. According to P.W. 20, when he was in his flat on 24th March 1964 at about 7 a.m. the independent candidate R. P. Jain (Whom he has identified in court) accompanied with Bishwanath Pd. and Dutt came to his flat on reaching there Bishwanath Pd. introduced Jain to him (P.W. 20) whereupon he asked them to sit, R. P. Jain addressing him (P.W. 20) said that he had something special to talk to him on which he (P.W. 18) who was then left and went into the bath room; after Ram Mohan had left R. P. Jain said that he was a candidate in this election and he (P.W. 20) should help him by giving him his first preference vote for which he (R. P. Jain) was prepared to help him by giving money to defray the expenses that he had incurred in his election, whereupon he (P.W. 20) told Jain that it was wholly improper on his part to talk of taking his vote by giving money and if he had any other talk to do he should do so; thereupon R. P. Jain said that on that occasion he had to talk to him about the election only when he (P.W. 20) expressed his utter inability to help him in this election upon which R. P. Jain apologised to him and went away from that place along with his two companions; after they had left Ram Mohan Singh came out of the bath room after finishing his bath when he (P.W. 20) disclosed to him that R. P. Jain had come to purchase his vote and was asking him to give his first preference and take money to meet the expenses of his election. His (P.W. 20) further statement is that he had disclosed this fact also to the petitioner subsequently. Ram Mohan Singh (P.W. 18) has substantially corroborated to above statement of his father (P.W. 20). According to him (P.W. 18) he was living in the flat on that occasion with his father and had found the independent candidate R. P. Jain having come to his flat along with two others. He

(P.W. 18) has identified R. P. Jain in court and further said that coming to their flat on that occasion one of the two companions of R. P. Jain pointed out to him (R. P. Jain) to my father saying that he was independent candidate. R. P. Jain contesting the election on which his father asked him (R. P. Jain) to sit; thereafter R. P. Jain addressing his father uttered that he had something special to talk to him; at that very time he (P.W. 18) went into the bath room to take his bath; he came out of the bath room after about 10 minutes by which time R. P. Jain and his other two companions had gone away; when he came out of his bath room his father told him that Jain Saheb had come to purchase his vote. He further informed him that he (R. P. Jain) was asking him to accept money to meet his expenses incurred in his own election and give his vote to him (R. P. Jain). The petitioner (P.W. 21) has also admitted that he had been informed by Ramjatan Singh about his having been approached on 24th March 1964 by Jain Saheb along with Bishwanath Verma and S. R. Dutt with proposal that he should accept money from him to meet the costs of his election and cast his first preference vote in his (Jain) favour.

103. The other side has cross-examined in detail all of them (P.Ws. 20, 18 and 21) on this part of their testimony also. But they have not been shaken. As their evidence in this regard stands, it has not been possible for the respondent to take out anything in the course of their cross-examination on the strength of which their testimony can be discarded as unbelievable. As mentioned above, P.W. 18 (Ram Mohan Singh) is a practising Advocate.

104. It has been submitted for the respondent that this Ramjatan Singh is a liar because during his evidence he had clearly alleged that 8 to 10 invalid votes which were fit to be rejected had been counted in favour of R. P. Jain which fact on scrutiny of the ballot papers of R. P. Jain has been found to be completely false. Moreover, his statement regarding this alleged approach is that the very suggestion of R. P. Jain about his accepting money from him to cast his vote in his favour was annoying to him so that he dismissed the suggestion summarily discarding it as wholly improper but in actual practice he has been found to have cast his second preference vote to R. P. Jain even though he was the election agent of Sheel Bhadra Yajee in this election and had received party mandate to cast his all preferences in favour of the Congress candidates only.

105. While dealing with the allegation of such invalid votes having been counted in favour of R. P. Jain as deposed by this witness (Ram Jatan Singh) I have shown above that none of the votes secured by R. P. Jain was invalid and fit to be rejected. But as I have also observed while discussing this point, it was possible for him to fall into such an erroneous impression in his mind on that occasion on the facts as they stood when the scrutiny must have been carried in a tense and agitated atmosphere. So, on the mere fact that they have all been found to be fit votes on scrutiny in court, it will not at all be correct to call him a liar on this accord. It was after all his own impression about those votes on the basis of which he was describing them as invalid and fit to be rejected about which assessment he cannot be said to be wholly unjustified or actuated by any sense of falsehood in the circumstances prevailing. Similarly, his giving of second preference to R. P. Jain instead of a congress candidate as disclosed by his ballot paper Ext. D(15) cannot I think be regarded as a sufficient circumstance to regard his evidence on this point as false. On the other hand, such action on his part, namely, giving of his second preference to R. P. Jain even though there was mandate of the party to do otherwise is a pointer to his having been approached by him (R. P. Jain) in connection with his vote. There is no suggestion to him (P.W. 20) that he was in any way attracted towards R. P. Jain in this election by his qualifications or some such like thing. Then what fascination he had for this gentleman who was almost a stranger to this place at the time of his contesting this election so as to think of in terms of casting his second preference to him even though he was not only a congress M.L.A. but also the election agent of the congress candidate Sheel Bhadra Yajee.

106. Regarding Ram Mohan Singh (P.W. 18) the respondent has characterised his evidence also as unworthy of credit on the ground that he was found sitting in court on the very first day (30th November 1964) when the evidence in this case begun as admitted by P.W. 1 (Ramayan Singh). Moreover, his (P.W. 18) name as a witness was not included in the first list of witnesses filed by the petitioner but it was mentioned in the second list dated 18th November 1964. It has further been said that though he was initially summoned for his evidence on 28th November 1964 but he actually came to give evidence on 4th January 1965 for which no fresh summon was taken but the date was simply changed from 28th November 1964 to 4th January 1965 in the same summon for which court's permission was also not taken as would be apparent by his summon [Ext. B(1)]. None of these points is, however, sufficient to discredit his testimony which as mentioned above has stood the test of cross-examination. The second list containing his name was also filed in court

before the commencement of this hearing. His sitting in court on 30th November, 1964 when the hearing commenced for the first time was not necessarily the result of his interest in the petitioner because being a practising Advocate of this court could not be expected to have no interest whatsoever with this case of somewhat sensational nature specially when his father as election agent of the petitioner with whom he resides was directly connected with it. No doubt the summons for 4th January 1965 is the same as of 28th November 1964 in which the date has been changed to the former from the latter. It is not known how this change were effected. But all the same he cannot be held himself to be in any way responsible for it. As such on this basis it can be said that he is so much interested in the petitioner that he has come to court to depose without any summons.

107. As usual, both R. P. Jain and Bishwanath Verma (R. Ws. 13 and 10) have stated that they had never been to Ramjatan Singh on 24th March 1964 or on any other date, nor there was never any offer of bribe to him by R. P. Jain asking for his first preference vote. This denial is, however, not of much consequence in as much as they cannot but do so in the given situation. Evidently, therefore, they are not at all sufficient to take away the effect of above convincing evidence given by P.Ws. 20, 18 and 21 to prove this point.

108. So after having considered all the evidence and circumstances referred to above in this regard I accept the allegation of offer of bribe by R. P. Jain to him (P.W. 20) to secure his vote in his favour.

109. I then pass on to the other allegation of the petitioner which is to the effect that on coming out of the counting room after the result were out R. P. Jain was heard to have uttered that he had bribed 60 M.L.As. but only 30 had voted for him and the rest were dishonest. To support his allegation in this behalf, the petitioner has examined four witnesses, P.W. 4 (Bhuneswar Pandey) P.W. 10 (Ram Shankar Pandey), P.W. 12 (Satruhan Pd. Singh) and P.W. 20 (Ramjatan Singh) who are said to be eye witnesses of the occurrence having heard and seen R. P. Jain uttering like this outside the counting room when he came out of it. Petitioner (P.W. 21) has also tried to corroborate them by saying that he had been informed of it by these persons subsequently. He has also produced a printed copy of the speech made by Sri M. N. Govindan Nair, M.P. on the floor of the Rajya Sabha [Vide Extn. 7(a) at page 1147]. In this speech he had referred to the defeat of Sheel Bhadra Yajee alleging that votes were purchased. He further said that in the State Assembly it was mentioned that 32 votes had been purchased and that a certain member ever complained that although he had paid money to 60 voters but he got only 30 votes. Attempt has been made on behalf of the petitioner to show from the evidence of some of these persons that R. P. Jain was present in the Rajya Sabha when this speech was made by Sri Nair and still he (Jain) did not refute it at that time or even subsequently. To refute the above accusation against him respondent No. 1 besides himself (R.W. 13) has examined 4 other persons, namely, Budhanath Singh (R.W. 6), Bishwanath Verma (R.W. 10), Bhagwan Pd. Singh (R.W. 11), Sachidanand Tripathy (R.W. 12). He (R.W. 13) has emphatically denied to have ever uttered like this after coming out of the counting room or any time thereafter. He has also denied to be present in the Rajya Sabha at the time the above speech was made by Sri Nair. Bishwanath Verma (R.W. 10) and Bhagwan Pd. (R.W. 11) who were respectively, the election and counting agents of R. P. Jain and claim to have been with him during the counting inside the room and also when he came out of it, have also denied about his having made any such utterance on that occasion. So also is the denial of the other two (R.Ws. 6 and 12) who assert to have been present waiting for Jain's coming out of the counting hall. Their further statement is that soon as Jain came out of the room after the result, he was advised to go and obtain the result certificate which he had not obtained and he immediately returned into the room and came out with the certificate a few minutes thereafter when there were exchange of greetings and congratulations between Jain, them and his other admrers and they accompanied him to his (Jain) jeep waiting there below the Assembly verandah in which three, namely, Jain, Verma and Bhagwan got in and it drove to his (Jain) place and during the whole of this period Jain never made any such utterance.

110. When evidence was being led on behalf of the petitioner to prove this point it was objected to by the respondent No. 1 on the ground that it was not admissible because the petitioner had not set out the case like this in the election petition which was necessary for him to do according to the provisions of section 83 of the R. P. Act, 1951. The objection was noted and it was left to be decided in the judgment. Advancing his argument on this point learned Counsel for the respondent has urged that this being a very material fact of alleged corrupt practices so much so that the petitioner is now asking the Tribunal to declare him elected after eliminating all the 30 votes of Jain as he had himself admitted to have secured them all by bribing the voters it was imperative on his part to set forth its full

particulars in the election petition itself as enjoined by section 83(1)(b), but there is not even a whisper in the election petition about it and evidence on this line has been introduced for the first time in court in the course of the hearing. In my opinion, the petitioner's evidence in this regard cannot be overlooked holding them to be inadmissible. His allegation about this matter cannot I think be strictly construed as an instance of corrupt practice so as to require him to set out its full particulars with date and place in the body of the election petition as required by the above section. As this allegation stands, it is, so to say, by way of corroboration because the petitioner wants this to be used as a circumstance to corroborate his allegation of bribery levelled against R. P. Jain to secure his votes. It has been submitted on behalf of the petitioner that because this by itself was not sought to be availed as an instance of corrupt practice but as an admission of corrupt practice alleged against the respondent it was not necessary on his part to implead it in the election petition under section 83 and in its absence therein he could not be debarred from leading evidence to prove it. This argument does not seem to be without force. For these reasons, I do not think the Tribunal would have been justified in stopping the petitioner to give evidence on this point and it had been rightly allowed, and cannot now be left out of considerations on the ground of being an inadmissible piece of evidence. The question whether the petitioner has been able to substantiate its allegation in this regard on these evidence or not, is a different matter altogether and has to be considered on its own merit.

111. I have already referred to the denial of the respondent (R.W. 13) about his presence in the Rajya Sabha when the above speech was made. No reliable evidence has been adduced to show that he was actually present. PW4 (Bhuneswar) asserts that he was told about Jain's presence in the Rajya Sabha on that occasion by Chaudhary A. Mohamed who has not however come forward to support this statement. So it has not been proved that he (Jain) was present there then. As such had he (Jain) could rebut it on that occasion. Moreover, there is no such case of the petitioner that Sri Nair was present at the time of this election in Bihar so as to be able to have first hand knowledge of this fact. His knowledge about it must have been derived from information given to him by others. But that source has not been disclosed nor any of his informant or informants have come forward to support him here. So, no undue importance can be attached to this speech of Sri Nair based on hearsay knowledge of the speaker. According to the respondent this speech is the foundation of the petitioner's allegation to this effect and he has subsequently manoeuvred evidence in the shape of above witnesses and get it substantiated on that basis. Where he has miserably failed.

112. It cannot be easily believed that R. P. Jain who is an experienced business man having business experience of 28 years would have been so indiscreet as to make such gratuitous confession of his guilt in this behalf even if true. It cannot be assumed for a moment that he was not aware of the consequences resulting from the charge of bribery if found proved against him. In that circumstance, how could he be believed to have made such inculpatory statement so as to ridicule his glory of victory having achieved it already. The argument that he had done so on the spur of the moment as he could not then conceive that there would be an election petition against him does not appeal at all convincing. These circumstances apart, as observed above there is not even a whisper in the election petition about such utterances from his (R. P. Jain) Mouth. As the case of the petitioner as he (petitioner) had been informed of it before this election petition was filed. In that case it is un-explainable why such a important point was not mentioned in the election petition at all. This is no doubt a circumstance which militates against the correctness of his case in this behalf. Even evidence of P. Ws. 4, 10 and 12 in this regard are not wholly consistent. Though Ramjatan Singh (P.W. 20) asserts to be present then Jain is said to have uttered like this but according to P.W. 12 (Satruhan Singh) he (P.W. 20) was not present at that time.

113. So after taking into consideration the evidence of above P.Ws. and R.Ws. examined by the parties on this point and also the circumstances referred to above I find myself unable to believe in the correctness of the petitioner's case regarding this point, and it is accordingly held against the petitioner.

114. On the strength of above findings I therefore hold that respondent No. 1 his election agent and his worker with their consent had secured votes of three voters, namely, Chotu Ram Jadunandan Murmu and Vidyakishore Vidyankar by bribing them and had also offered bribe to 4 voters, namely, Ram Narain Chaudhary, Shah Mostaque Ahmad, Prabhatkumar Adityadec and Ranjatan Singh to secure their votes in his favour and had thereby committed corrupt practice under section 123 of the R.P. Act. I also held that these three votes

obtained by respondent No. 1 after bribing the voters concerned are fit to be deducted. Both these issues, namely, Nos. 3 and 4 are decided accordingly.

Issue No. 6:

115. The case of the petitioner in this behalf as set out in the election petition is that if the votes of respondent No. 1 obtained by means of corrupt practices are eliminated he (petitioner) would be duly elected by majority of valid votes as he had in fact received the majority of valid votes. According to the chart of counting of votes as incorporated in paragraph 11 of the election petition, the first preference votes secured in the first counting by the petitioner and respondent No. 1 were 2,400 and 3,000 respectively whereas in the final counting it was 2,710 and 3,389. It may be mentioned that these figures are on the basis of every valid ballot paper being deemed to be of the value of 100 as per rule 76 of the Conduct of Election Rules 1951. These figures also tally with the figures appearing in the result sheet of this election (Ext. 8). In support of his case in this regard, learned Counsel for the petitioner in the first instance urged that if his case of purchase of the first preference votes of Vidyakishore Vidyalkar, Jadunandan Murmu and Chotu Ram is believed then their first preference to Jain will have to be eliminated as required by auction 101 of the R.P. Act and in that event their second preference which they have given to the petitioner will have to be counted as his first preference in his (petitioner) favour as there is no case of any party that they had been obtained by the petitioner by resorting to any corrupt practice or some such like thing. He next contended that as the result sheet (Ext. 8) will show the final counting votes of R. P. Jain i.e. 3389 includes two votes of the petitioner after his (petitioner) elimination and these votes according to him related to the ballots Exts. D(14) and D(15) in which first preference had been given to Yajee and the second preference to Jain. So, according to him, if these two votes are subtracted from the total of R. P. Jain then his balance comes to 3,189 and if from this balance the above three votes of Vidyakishore Vidyalkar, Chotu Ram and Jadunandan Murmu, which were to be treated as invalid due to corrupt practice are deducted further, then his final balance would be 2,889. His further submission was that adding to the petitioner's votes of 2,710, which he was found to have been received in the final counting the three second preference votes of these three persons, namely, Vidyakishore Vidyalkar, Chotu Ram and Jadunandan Murmu, which are to be treated as first preference of the petitioner, his total would come to 3,010 which is obviously more than the above final of 2,889 of respondent No. 1. On these calculations he submitted, it will thus be seen that the total valid votes, after necessary subtractions and additions, obtained by the petitioner are more than that obtained by the respondent No. 1 and as such he (petitioner) has to be declared duly elected to this seat having secured the majority of valid votes. The above contentions of the petitioner were seriously refuted by the learned Counsel for the respondent who submitted that the very premises of these arguments advanced by the petitioner's Counsel are without foundation in as much as it was manifest from the contents of this result sheet (Ext. 8) that he (respondent No. 1) was declared elected before petitioner's elimination had taken place. In this view of the matter, according to him, there was never any occasion for the aforesaid second preference votes of the petitioner being added to the votes of respondent No. 1. After having scrutinised the relevant items in Ext. 8 in the light of these contentions of the respondent learned Counsel representing the petitioner conceded to this position made out by the respondent's Counsel and gave out that he (petitioner Counsel) would not press his above arguments concerning this matter. That being the undisputed position with regard to these votes, the question of their deduction from the votes obtained by respondent No. 1 cannot arise. So on the available data it cannot be held that the number of valid votes secured by the petitioner was more than those of the respondent No. 1. In this circumstances, he (petitioner) cannot be deemed to have received the majority of the valid votes as claimed by him so as to be declared duly elected.

116. It has also been argued by the petitioner that all the 30 votes obtained by respondent No. 1 are to be rejected as invalid as he had himself admitted to have obtained them by bribing the voters which fact has also been proved by his (petitioner's) evidence produced in this behalf. Alternatively, his argument is that at least the 11 votes of the congress M.L.As., which have gone in favour of the respondent are to be eliminated from his total votes of 30 because they had all been obtained by bribing the 11 voters concerned and when they are knocked off, the balance left in the hands of the respondent is only 19 which is much below his (petitioner's) total number of votes. So, if either of these views prevails then the respondent No. 1 goes out of the picture and the petitioner has to be declared duly elected.

117. In my opinion, none of the above two contentions addressed by the petitioner is well founded. I have already disbelieved the petitioner's case about any such admission of respondent No. 1. So also his (petitioner's) evidence in this behalf has been discredited. As such, the question of all his 30 votes being invalid having been obtained by corrupt practice does not arise at all. Similarly, as I have already held above that though sufficient suspicion arises in one's mind against respondent No. 1 in respect of his other 8 first preference votes of the congress M.L.As., but there is no sufficient material on record to prove as required under law that he had actually obtained them by paying money to those voters. I have held the charge of bribery established only against three of these 11 voters who are Vidyakishore Vidyalkar, Chotu Ram and Jadunandan Murmu. In such circumstances, there can be no ground for thinking in terms of eliminating of all these 11 votes from the 30 votes obtained by this respondent. At the most, only these three votes about whom the charge of corrupt practice has been found proved are to be eliminated according to the provisions of section 101, and as my above discussions have shown that even if these three are to be struck off, then also the petitioner is not found to have secured the majority of valid votes to get a declaration of election in his favour. For these reasons, I am unable to uphold the petitioner's case in this behalf. This issue is, therefore, answered in the negative and decided against him (petitioner).

Issue No. 9:

118. As mentioned above, the reliefs sought to by the petitioner are two-fold. One is to declare the election of respondent No. 1 as void, and the second to declare him (petitioner) to be duly elected to the Rajya Sabha. So far as the first relief is concerned, I think it has got to be granted in view of my findings above that respondent No. 1 had in this election committed corrupt practices of the above nature which come within the mischief of section 123 of the R.P. Act. As to the second relief, it cannot be allowed because, as I have shown above, the petitioner has failed to prove that he had received the majority of valid votes entitling him to be declared duly elected. This issue is accordingly decided.

119. It will not be out of place to mention here that while considering the matters in controversy between the parties I have also looked into other evidence, both oral and documentary, on record but as they do not appear to be material for deciding these matters I have not thought it necessary to refer and rely upon them during my above discussions. I have mentioned this fact to remove the impression, if any, in one's mind that they have not attracted the notice of the Tribunal and it has not applied its mind to them.

120. On the result of my above findings, it is therefore

Ordered

that the election petition be allowed in part on contest against respondent No. 1 and without contest against the rest of the respondents, with costs besides hearing fee of Rs. 500 which shall all be payable by respondent No. 1 alone. The election of respondent No. 1 to the Rajya Sabha is hereby declared to be void. The prayer of the petitioner for declaring him to be duly elected member of the Rajya Sabha is disallowed.

Sd./- C. P. SINHA,
Member, Election Tribunal, Patna.
31-5-1965.

Dictated and corrected by me.

Sd./- C. P. SINHA,
Member, Election Tribunal, Patna.
31-5-1965.

Compared by Read by
B. SINGH, Steno MEHDI HASAN.

True copy
MEHDI HASAN,
Bench Clerk
Election Tribunal, Patna.

[No. 82/7/64.]

New Delhi, the 2nd July, 1965

S.O. 2293.—It is notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified.
1	2	3
Shrimati Gyan Devi, Village Asrauli, P.O. and District Etah.	76-Hathras (SC)	UP-HP/76/65-BYE(2) dated the 6th May, 1965.

[No. UP-HP/76/65-BYE(2-R)/13423.]

By Order,

PRAKASH NARAIN, Secy.

MINISTRY OF LAW

(Department of Legal Affairs)

New Delhi, the 16th July 1965

S.O. 2294.—In exercise of the powers conferred by clause (i) of article 299 of the Constitution, the President hereby directs that all contracts and other instruments required to be made in the exercise of the executive power of the Union, in connection with the purchase of animals from non-official suppliers in Italy, for the Indian Army during the period July, 1965 to December, 1965, shall be executed on his behalf by the First Secretary (Commercial), Embassy of India, Rome.

[No. F. 17(1)/65-J.]

A. P. ROY, Dy. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 15th July 1965

S.O. 2295.—In pursuance of clause (b) of sub-section (1) of Section 10 of the Industrial Finance Corporation Act, 1948 (15 of 1948), the Central Government hereby nominates Shri S. S. Shiralkar, Additional Secretary, Department of Economic Affairs, Ministry of Finance as a Director of the Industrial Finance Corporation of India vice Shri M. R. Yardi.

[No. F. 2(64)-Corp/65.]

M. K. VENKATACHALAM, Dir. (Investments).

(Department of Economic Affairs)

New Delhi, the 16th July 1965

S.O. 2395 —Statement of the Affairs of the Reserve Bank of India, as on the 9th July, 1965

BANKING DEPARTMENT

LIABILITIES		Rs.	ASSETS		Rs.
Capital Paid Up	.	5,00,00,000	Notes	.	20,94,85,000
	.		Rupee Coin	.	6,86,000
Reserve Fund	.	80,00,00,000	Small Coin	.	3,33,000
National Agricultural Credit (Long Term Operations) Fund	.	100,00,00,000	Bills purchased and discounted:—		
	.		(a) Internal	.	..
	.		(b) External	.	..
National Agricultural Credit (Stabilisation) Fund	.	10,00,00,000	(c) Government Treasury Bills	.	56,72,27,000
	.		Balances held Abroad*	.	4,46,16,000
National Industrial Credit (Long Term Operations) Fund	.	15,00,00,000	Investments**	.	276,53,11,000
	.		Loans and Advances to:—		
	.		(i) Central Government	.	..
	.		(ii) State Governments	.	44,22,01,000

Deposits :-

Loans and Advances to :-

(a) Government:		(i) Scheduled Banks†	54,99,25,000
		(ii) State Co-operative Banks††	153,50,81,000
		(iii) Others	2,03,26,000
(i) Central Government	77,42,34,000	Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund—	
(ii) State Governments	17,19,27,000	(a) Loans and Advances to:—	
		(i) State Governments	30,03,70,000
		(ii) State Co-operative Banks	14,26,42,000
		(iii) Central Land Mortgage Banks	
(b) Banks		(b) Investment in Central Land Mortgage Bank Debentures	4,60,35,000
(i) Scheduled Banks	104,32,87,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund—	
(ii) State Co-operative Banks	9,64,11,000	Loans and Advances to State Co-operative Banks	
(iii) Other Banks	7,56,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund—	
(c) Others	228,41,40,000	(a) Loans and Advances to the Development Bank	2,17,34,000
Bills Payable	40,91,83,000	(b) Investment in bonds/debentures issued by the Development Bank	
Other Liabilities	24,81,69,000	Other Assets	48,21,35,000
Rupees	712,81,07,000	Rupees	712,81,07,000

*Includes Cash and Short-term Securities.

**Excluding investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@ Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. Nil advanced to scheduled banks against usance bills under section 17(4) (c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 14th day of July 1965.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 9th day of July, 1965

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	20,94,85,000		Gold Coin and Bullion :—		
Notes in circulation	2689,34,37,000		(a) Held in India	133,75,66,000	
Total Notes issued		2710,29,22,000	(b) Held outside India	..	
			Foreign Securities	68,35,13,000	
			TOTAL		202,10,79,000
			Rupee Coin		93,46,03,000
			Government of India Rupee Securities		2414,72,40,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		2710,29,22,000	TOTAL ASSETS		2710,29,22,000

Dated the 14th day of July, 1965.

P. C. BHATTACHARYA,
Governor.

[No. F. 3(2)-BC/65]

R. K. SESHADRI,
Director (Banking).

(Deptt. of Economic Affairs)**(Office of the Controller of Capital Issues)***New Delhi, the 17th July 1965*

S.O. 2297.—In exercise of the powers conferred by Section 11 of the Capital Issues (Control) Act, 1947 (29 of 1947) and in supersession of the Notification of the Government of India in the Ministry of Finance, Department of Economic Affairs, S.O. 1396 dated the 16th May, 1963, the Central Government hereby re-constitutes the Advisory Committee on Capital Issues Control consisting of the following members:—

1. Shri G. L. Mehta.
2. Shri A. M. M. Murugappa Chettiar.
3. Shri C. C. Chokshi.
4. Mr. D. Fordwood.
5. Shri Sachindra Choudhuri, M.P.

Shri G. L. Mehta shall be the Chairman of the Advisory Committee.

2. The Advisory Committee shall have a tenure of two years.

[No. F. 16(2)-CCI/65.]

S. S. SHIRALKAR, Addl. Secy.

(Department of Economic Affairs)**(Office of the Controller of Capital Issues)***New Delhi, the 19th July 1965*

S.O. 2298.—In exercise of the powers conferred by sub-section (1) of Section 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby exempts the Industrial Credit and Investment Corporation of India Limited, from the provisions of Sections 3 and 5 of the said Act, in respect of Promissory Notes of a value not exceeding the equivalent of DM 5,000,000 (five million Deutsche Marks) executed and delivered by the said Corporation to Kreditanstalt für Wiederaufbau in terms of the Loan Agreement entered into between the said two parties.

[No. R. 225-CCI/65.]

M. K. VENKATACHALAM,

Controller of Capital Issues.

MINISTRY OF COMMERCE*Bombay, the 16th July 1965*

S.O. 2299.—In exercise of the powers conferred on me by clauses 3, 4, 13, 14A, and 17 of the Cotton Control Order, 1955, and of all other powers enabling me in this behalf, I hereby make the following order in respect of Indian cotton marketed in India from 1st September, 1965.

(1) *Permission for the sale of cotton by a manufacturer.*—No manufacturer shall sell cotton to any person without the previous written permission of the Textile Commissioner.

(2) The prices stated in Schedule 'A' annexed hereto will not apply to purchase of permitted varieties for the purposes of export by an exporter. However, no such exporter shall sell in the internal market any part of such cotton purchased for export without the written permission of the Textile Commissioner. In case such permission is granted, such cotton shall be sold in the internal market at a price not exceeding the maximum price specified in Schedule 'A'.

(3) *Purchase of 'Kapas' by manufacturer.*—Every Manufacturer to whom permission under sub-clause 3 of clause 13 of the Cotton Control Order, 1955 has been issued shall purchase 'Kapas' at such price that the eventual corresponding cost

price of the ginned and/or pressed lint out-turn shall not exceed the maximum price fixed in Schedule 'A':

Provided that no such manufacturer shall use for his own consumption any such cotton unless surveyed by the East India Cotton Association, Ltd., Bombay, in accordance with the provisions hereinafter contained. The samples for this purpose shall be drawn by the approved Controllers appointed by the East India Cotton Association Ltd., Bombay.

(4) *Filing of returns.*—Every 'A' class licence holder not being a manufacturer or a Bank, shall furnish every month to the Cotton Cell, Economic Branch, Office of the Textile Commissioner, in the form given in Annexure 'A', a statement of his actual stocks of Indian cotton so as to reach this Office on or before the 10th of the succeeding month.

(5) *Survey.*—(i) Subject to the provisions of paragraph (6) below, no manufacturer shall take delivery of any Indian cotton at a price exceeding the maximum price mentioned in the Survey certificate issued in accordance with the provisions herein contained.

(ii) Each application for survey or appeal shall be made by the manufacturer or appellant as the case may be in a form prescribed by the East India Cotton Association Ltd., Bombay, and approved by the Textile Commissioner, for the purpose from time to time.

(iii) For the purposes of survey, the manufacturer/buyer shall draw the samples in the presence of the seller, from the stamped bale on the basis of which the delivery is intended to be taken and shall forward the same duly sealed by, both the buyer and the seller, to the East India Cotton Association Ltd., Bombay.

(iv) The survey certificate shall show the name of the manufacturer, the name of the seller, the number of bales, the lot number, press running numbers of bales, press marks, description as claimed by the applicant, the award under the survey for the grade, staple and description and the maximum price which shall, however, be subject to adjustment in accordance with the provisions of sub-paragraph (ii) of paragraph 6.

(v) If either the manufacturer-applicant or the seller is not satisfied with the survey award of the East India Cotton Association Ltd., Bombay, he may prefer an appeal to the Textile Commissioner's Appeal Committee, known as *Ad Hoc* Committee, within eight days of the date of the survey award.

(6) *Minimum and maximum prices of cotton.*—(i) Subject to the other provisions hereinafter contained, the minimum and the maximum prices of cotton of the 1965-66 season of the description specified in columns (1) and (2) of Schedule 'A' shall be as specified in columns (3) and (4) respectively of the said Schedule:

Provided that where cotton which is the subject matter of a contract, is of a quality either inferior or superior to the basic quality referred to in columns (1) and (2) of the said Schedule, the minimum and maximum prices shall be decreased or increased as the case may be, by an amount specified in columns (5) to (15) of the said Schedule:

Provided further that no such cotton shall be considered to be of a quality superior to the basic quality as aforesaid unless its superior staple and class have been certified by the East India Cotton Association Ltd., Bombay, or in appeal, by the Textile Commissioner's Appeal Committee known as *Ad Hoc* Committee and the maximum price of such cotton shall be in accordance with the description, staple and class mentioned in such certificate.

(ii) (a) The prices specified in Schedule 'A' are in rupees per quintal of 100 kgs. net for delivery in full pressed bales ex-seller's godown, Bombay and include 1/4 per cent brokerage payable by the seller to the buyer and the usual sample and stone allowance as provided in the bye-laws of the East India Cotton Association Ltd., Bombay. However, when cotton is requisitioned, no brokerage charge or any other allowance (except stone allowance in Bombay) will be permissible.

(b) The minimum and maximum prices at the place of origin shall be the price specified in Schedule 'A' reduced by a sum equivalent to the railway freight from the place of origin to Bombay and a sum equivalent to 1 per cent of the price, subject to a minimum of Rs. 2.80 per quintal.

(c) The minimum and maximum prices for delivery at any place other than the place of origin of Bombay shall be the prices applicable in the place of origin as arrived at in accordance with the above paragraph and increased by a sum equivalent to the railway freight from the place of origin to the place of delivery to the buyer and a sum equivalent to 1 per cent of the price subject a minimum of Rs. 2.80 per quintal.

(d) The maximum prices specified in paragraph 6 (i) and sub-paragraphs (a), (b) and (c) of paragraph 6(ii) shall be increased, where the sale is directly to a manufacturer, by 1-1/4 per cent thereof, and if the sale is directly to an 'A' class licensee by 3/4 per cent thereof, except in the case of cotton requisitioned by an order of the Textile Commissioner or any officer authorised by him in this behalf.

(e) The maximum and minimum prices specified in paragraph 6(i) and sub-paragraphs (a), (b) and (c) of paragraph 6(ii) shall be decreased by Rs. 7 per quintal when the subject matter of the contract is ginned (that is unpressed) cotton.

(f) Where Cotton which is the subject-matter of a contract is loose cotton obtained by opening a full pressed bale and does not exceed 15 kgs. in weight, the maximum prices specified in paragraph 6 (i) and sub-paragraphs (a), (b) and (c) of paragraph 6(ii) shall be increased by 12½ thereof.

(g) The minimum price fixed under this notification shall not apply to cotton which is inferior in class or staple to that for which allowances are specified in columns (5), (6), (7), (10) and (11) of Schedule A but it shall be open to any person or persons who are required to fix the exact value of any such cotton to fix a value which is less than the price specified for the lowest staple and class of cotton of the description.

(h) Nothing in this notification shall apply to a contract of sale for the purpose of export by any exporter with an overseas buyer or his agent or by a grower or middleman with an exporter or his agent.

(i) A certificate from the Textile Commissioner to the effect that the contract entered into is for the purpose of export shall be conclusive evidence of that fact.

(7) *Cotton requisitioned.*—(i) At the time of requisitioning, the holder of the cotton shall be required to declare the variety of his cotton which is intended to be requisitioned. If, however, it is found by the committee specified in Schedule 'B' in survey that the variety of the cotton is other than what had been declared by the holder, the Textile Commissioner may require the holder to replace the cotton by the variety originally declared by him. In case of the cotton requisitioned, the holder of the cotton shall arrange for the sampling of cotton by the authorised controller.

(ii) In case the quality of cotton requisitioned by the Textile Commissioner is found by the Committee specified in Schedule 'B' annexed hereto, to be inferior to the minimum grade or staple for which the prices are prescribed in Schedule 'A' the person in whose favour the cotton is requisitioned shall have a right to refuse to take delivery of such cotton. In the event of such refusal the holder of the cotton shall be required to replace such cotton by cotton having a staple and grade for which the prices are prescribed in the said Schedule 'A' if required by the Textile Commissioner.

(8) *Varieties not having ceiling prices.*—No ceiling prices have been fixed for:—(a) Andrews Extra long staple cotton [Sea-Island (Andrews)] grown in the States of Andhra Pradesh, Kerala, Mysore, Maharashtra and Madras if it is certified by the Committee specified in Schedule 'B' as having staple length of above 1-3/32" and complies with the following conditions:—

(i) The seeds required for sowing such cotton in the above States have been duly approved and supplied by the Officers of the Sea-Island Cotton Development Scheme in the States of Kerala and Mysore and the Officers of the Department of Agriculture in the States of Andhra Pradesh, Maharashtra and Madras and a certificate of purity has been issued by them for the pressed bales.

(ii) The ginning and pressing of the crop of such cotton have been done under the supervision of the aforesaid officers and a certificate of purity has been issued by them for the pressed bales.

(b) I.S.C.-67 (Gujarat 67) cotton grown in Gujarat State, if it is certified by the Committee specified in Schedule 'B' as having a staple length above 1-3/32" and complies with the following conditions:—

(i) The seeds required for sowing such cotton have been duly approved and supplied by the State Department of Agriculture.

(ii) The ginning and pressing of the crop of such cotton have been done under the supervision of the State Department of Agriculture and a certificate of purity has been issued by the Department for the pressed bales.

(c) Any other cotton which may be certified by the State Departments of Agriculture or 'Agmarked' under the Cotton Grading and Marking Rules, 1962, indicating varietal purity and further certified as having a staple length above 1-3/32" by the Committee specified in Schedule 'B'.

(9) *Description of varieties.*—(a) (i) "Vidarbha/M.P. Virnar" means cotton recognised as such and grown in Vidarbha region of Maharashtra State, Madhya Pradesh Jhalawar district and Udaipur Division of Rajasthan and Adilabad district of Andhra Pradesh and includes "Virnar (197-3)", "Maljari" "Malvi" and "Bhoj" grown in these areas. It also includes H. 420 grown in Kurnool and Ananthapur districts of Andhra Pradesh, and Bellary and Chitradurga districts of Mysore State, provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923). It also includes "Buri-American" which does not conform to the definition in sub-paragraph (p) of this paragraph.

(ii) "Moglal Jarilla" means cotton recognised as such and grown in the Marathwada region (excluding the 93 villages in Soyagaon Mahal and Kannad and Bhokardan talukas of Aurangabad district) and Hingoli taluka of Parbhani district of Maharashtra State protected under the Cotton Transport Act, 1923 (3 of 1923) or other corresponding Act and includes Virnar (197/3) grown in these areas.

(iii) "Khandesh Virnar" means cotton recognised as such and grown in the district of Ahmednagar, Sholapur, Poona, Satara, Nasik, Jalgaon and Dhulia (excluding Nowapur and Akkalkuwa Talukas and in the 93 villages in Soyagaon Mahal and Kannad and Bhokardan talukas of Aurangabad district of Maharashtra State protected under the Cotton Transport Act 1923 (3 of 1923) and Virnar 197-3 grown in the Bijapur District of Mysore State. It also includes "Y-1" grown in the above area if recognised as such.

(b) (i) "Digvijay (A)" means cotton recognised as such (including Vijay) and grown in the district of Surat, Broach, Baroda, Kaira (except talukas of Cambay and Petlad), Panchmahals and Sabarkantha of Gujarat State and Banswara district of Rajasthan and Nawapur and Akkalkuwa talukas of Dhulia district of Maharashtra State.

(ii) "Digvijay (B)" means cotton recognised as such (including Vijay) and grown in Cambay and Petlad talukas of Kaira district, Ahmedabad district lying South of River Sabarmati (including part of Daskroi taluka and the whole of City and Dehgam talukas) of Gujarat State. If any, "Digvijay" cotton grown in these areas is recognised as "Digvijay (A)", such cotton shall come under "Digvijay (A)".

(c) "Punjab American H. 14" means cotton recognised as such and grown in the State of Punjab and includes "Punjab American 216 F" grown in the State of Uttar Pradesh, Madras and Andhra Pradesh provided, that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923) or other corresponding Act. It also includes "Punjab American LL 54" grown in the Punjab State which does not conform to the definition in sub-paragraph (t) (2) of this paragraph.

(d) "Punjab American 320F" means cotton recognised as such as grown in the States of Punjab and Uttar Pradesh and in the Ganganagar district of Rajasthan, provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923), or other corresponding Act. It also includes "Punjab American L. S. S."

(e) "Jayadhar" means cotton recognised as such and grown in Dharwar, Belgaum, Bijapur, Chitradurga, and Raichur districts of Mysore State and Sangli, Satara and Kolhapur Districts of Maharashtra State provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923

(3 of 1923), or other corresponding Act. It also includes "BC-1 (Suyodhar)" grown in the above areas of Mysore State if recognised as such.

(f) "Laxmi" means cotton recognised as such and grown in Dharwar, Belgaum, Bijapur, Chitradurga, Hassan, Chikmagalur, Shimoga, Mandya; Mysore; Gulbarga; Raichur and Bellary Districts of Mysore State, Kurnool, Cuddapah and Anantapur districts of Andhra Pradesh, Phaltan Taluka of Satara District, Baramati taluka of Poona district and Sangli and Sholapur districts of Maharashtra State provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923), or other corresponding Act. It also includes cotton recognised as such and grown in Madras State. It further includes "M.A. 5" which does not conform to the definition of sub-paragraph (t) (2) of this paragraph.

(g) "Westerns" means cotton recognised as such and grown in the Bellary and Raichur districts of Mysore State and Kurnool, Anantapur, Cuddapah and Mehboobnagar districts of Andhra Pradesh and includes "Hagari 1" (Westerns Farm), "White Northerns" and "Red Northerns". It also includes certified "Adonicum" recognised as such and grown in the Mungari Tract [as defined in sub-paragraph (o) below] of Andhra Pradesh and "Coconadas 1 and 2" and "Coconadas White (741)" grown in the Coastal districts of Andhra Pradesh.

(h) "Karunganni" means cotton recognised as such and grown in Coimbatore, Tiruchirappalli, Madurai, Ramanathapuram and Tirunelveli districts of Madras State and includes "Karunganni K2 K3 and uncertified K6 (Pandyan)". "Tirunelveli" and "Salems" Nadam, Bourbon and Uppam).

(i) "Dholleras" means cotton recognised as such and grown in the Rajkot division of the Gujarat State and includes "Cutch", "1027", "Kadi/Viramgam", "Kadayo", "Wagad", and "Kalagin". It also includes "Kalyan" which does not conform to the definition of the cotton contained in sub-paragraph (j) of this paragraph.

(j) "Kalyan" means cotton recognised as such and grown :—

(i) In the Ahmedabad (Dholka, Dhandhuka, Sanand and Viramgam talukas), Kaira (Cambay taluka) Banaskantha and Mehsana districts and parts of Surendranagar district of Gujarat State, provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923).

(ii) In the Rajkot division of Gujarat State, provided that the seed required for sowing has been duly approved and supplied by the State Department of the Agriculture and the produce has been certified by that Department as being "Kalyan".

(k) "Sanjay" (CJ 73) means cotton recognised as such and grown in Rajkot division of Gujarat State. It also includes Pratap recognised as such and grown in these areas.

(l) "Bengal Desi" means cotton recognised as such and grown in the States of Punjab, Uttar Pradesh and Rajasthan. It also includes Raniben (UR-1) cotton grown in Uttar Pradesh if recognised as such.

(m) "Oomras" means cotton recognised as such and grown in Sholapur, Ahmednagar and Poona districts and Vidarbha and Marathwada regions of Maharashtra State, Adilabad and Warangal districts of Andhra Pradesh and East Nimar (Khandwa), West Nimar (Khargone), Hoshangabad and Chhindwara districts of Madhya Pradesh. It also includes "C.P.I. and II" and "Central India Cotton" recognised as such and grown in these areas.

(n) "Mathia" means cotton recognised as such and grown in the Rajkot division of the Gujarat State.

(o) "Mungari" means cotton recognised as such and grown in Bellary and Raichur districts of Mysore State and in the Anantapur, Cuddapah and Kurnool (Except Cumbum and Markapur talukas) districts and Gadhwal and Alampur talukas of Mehboobnagar district of Andhra Pradesh.

(p) "Buri American" means cotton recognised as such and grown in the Madhya Pradesh, Kotah (Except Jhalawar district), Udaipur and Ajmer Division of

Rajasthan, and includes "Buri 107", "C Indore 1", "C Indore 2" and "Udaipur American", provided the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923), or other corresponding Act. It also includes uncertified "Buri 0394" recognised as such and grown in the Madhya Pradesh and uncertified "A.51.9" grown outside the area, controlled under the Madhya Pradesh Cotton Control Act, 1954, comprising East Nimar (Khandwa) and West Nimar (Kargone) districts, Kukshi and Manawar tahsils of Dhar District and Jhandla, Jhabua and Patalwad tahsils of Jhabua district of Madhya Pradesh and uncertified C.T.I. 4-21 (Badnawar-1) grown outside Badnawar tahsil of Dhar district of Madhya Pradesh. It further includes "Parbhani American" cotton recognised as such and grown in Adilabad, Uttoor and Boath talukas of Adilabad district of Andhra Pradesh and Islapur circle of Nanded district.

(q) "L-147" means cotton recognised as such (known also as Buri L-147) and grown in the Vidharbha region and Jalgaon district of Maharashtra State, Adilabad district of Andhra Pradesh and Madhya Pradesh. It also includes B-147 cotton grown in the Nanded, Parbhani, Bhir, Aurangabad and Osmanabad districts of Maharashtra State, provided that the cotton is certified as such by the State Department of Agriculture. It further includes CTI 4-21 (Badnawar-1) recognised as such and grown in the Badnawar tahsil of Dhar district of Madhya Pradesh, notified as controlled area under the Madhya Pradesh Cotton Control Act 1954.

(r) "Gaorani 6 and 12" means cotton recognised as such and grown in Nanded (excluding Kinwat taluka and Islapur circle), Parbhani, Osmanabad, Aurangabad (excluding the 93 villages in Soyagaon Mahal, Kannad and Bhokardan talukas merged in Khandesh tract) and Bir districts of Maharashtra State, Bidar and Gulbarga districts of Mysore State and Adilabad (Nirmal and Mudhol talukas) and Medak (Zahirabad and Narayankhed talukas) districts of Andhra Pradesh provided that the areas in which the cotton is grown are protected under the Cotton Transport Act, 1923 (3 of 1923) or any corresponding Act. It includes "Daulat" (2204) "G. 22", "G. 46", "1494" grown in these areas. It further includes "Nandyal 14", "Nandicum" and "Gaorani 6" (Umri) grown in the Kurnool district of Andhra Pradesh.

Prices specified for these varieties in schedule 'A' would apply if they are (a) certified by the State Department of Agriculture or (b) Agmarked under the Cotton Grading and Marking Rules 1962, indicating varietal purity.

(s) "AK-235 and 277" means cotton recognised as such and grown in Vidharbha region of Maharashtra State.

(t) (1) "Cambodia (A)" means cotton recognised as "Rajapalayam or M.C.U. 1 (Co. 4)" grown in Madras State and includes "M.C.U.-3 (9030G)". It also includes "M.C.U. 2" grown as summer crop in Ramnathapuram, Madurai and Tirunelveli districts of Madras State. It further includes "Indo-American 170-Co. 2" and "134-Co. 2 M." grown in the States of Gujarat and Maharashtra and "170-Co. 2" grown in Bijapur and Belgaum districts of Mysore State.

(i) The prices specified for these varieties in Schedule 'A' would apply if they are of the staple length of 1-1/32" and over and if they are (a) certified by the State Departments of Agriculture or (b) "Agmarked" under the Cotton Grading and Marking Rules, 1962, indicating varietal purity or (c) certified by the East India Cotton Association, Bombay or by the Certification Officer, duly authorised in this respect by the Director of Agriculture under the Superior Cotton Certification Scheme in the Madras State, with the right of appeal to the Committee specified in Schedule 'B' as having a staple length of 1-1/32" and above.

(ii) No cotton stapling below 1-1/32" will be recognised as coming under the varieties mentioned in the above clause (t)(i).

(2) "Cambodia (B)," means cotton recognised as certified or "Agmarked" "M.A. 5" and "L.L. 54" and uncertified "134-Co. 2 M" "170-Co. 2" "M.C.U. 1" (Co. 4), "M.C.U. 2" and "M.C.U. 3" (9030G) grown in the States of Madras, Gujarat, Maharashtra, Mysore, Punjab and Ganganagar district of Rajasthan. It also includes Laxmi cotton grown in Phalten taluka of Satara district and Baramati taluka of Poona district in Maharashtra State if certified by the Director of Agriculture as having been grown in these areas and if it is more than 1" in staple.

(3) "Cambodia (C)" means all Cambodia cotton recognised as such and grown in the States of Madras, Andhra Pradesh, Mysore, Kerala (Palghat district), Maharashtra, Gujarat and Madhya Pradesh. It also includes "K. 6(Pandyan)" if

recognised as such and also certified by the Certification Officer duly authorised in this behalf by the Director of Agriculture under the Superior Cotton Certification Scheme in Madras State. It also includes "A. 51 9" (Narmada) recognised as such and grown in the East Nimar (Khandwa) and West Nimar (Khargone) districts, Kushi and Manawar tehsils of Dhar district and Thandia, Jabua and Petalwad tehsils of Jabua district of Madhya Pradesh, notified as controlled area under the Madhya Pradesh, Cotton Control Order, 1954.

(u) Andrews Extra Long Staple (otherwise known as "Sea-Island Andrews") means cotton recognised as such and grown in Kozhikode, Palghat and Trichur districts and other coastal parts of Kerala State, Hassan, Mandya, Shimoga, Chikmagalur and other districts in the Malnad area of the Mysore State and States of Maharashtra, Madras and Andhra Pradesh.

The basic minimum prices specified in Schedule A will apply only if the cotton is certified (a) by the State Department of Agriculture, or (b) "Agmarked" under the Cotton Grading and Marking Rules, 1962, indicating varietal purity.

(v) "I.S.C.-67" (Gujarat 67) means cotton recognised as such and grown in Gujarat State.

The basic minimum prices specified in Schedule A will apply only if the cotton is certified (a) by the State Department of Agriculture, or (b) "Agmarked" under the Cotton Grading and Marking Rules, 1962, indicating varietal purity.

(10) *Ad Hoc Committee*.—The Committee specified in Schedule 'B' shall be the Committee to which the final appeal may lie in respect of questions regarding the quality of cotton and prices. Any cotton not coming under any of the above descriptions will be submitted to the *Ad Hoc* Committee for classifications and for fixing the minimum and maximum prices except mixed cotton which may be sent to East India Cotton Association Ltd., Bombay for fixing the minimum and maximum prices. In case of references for fixing the minimum and maximum prices of any cotton on the basis of certificates issued for staple, grade and/or description by the East India Cotton Association Ltd., Bombay the *Ad Hoc* Committee may, if necessary, require the actual samples to be produced before it for a re-survey before fixing such minimum and maximum prices. On the basis of such re-survey it may give its award on staple, grade and/or description of the cotton and such award shall be final irrespective of any classification thereof made by the East India Cotton Association Ltd., Bombay.

(11) *Restrictions and conditions on Contract*.—The Contracts for the sale or purchase of Indian Cotton produce during the cotton season 1965-66 shall be subject to the following restrictions and conditions:—

(a) No person shall enter into a contract for the sale or purchase of cotton at a price less than the minimum price or more than the maximum prices as fixed by the Textile Commissioner under clause 3 of the Cotton Control Order, 1955, in respect of Indian Cotton produce during the cotton season 1965-66 as applicable to the subject matter of the contract having regard to the place of delivery thereunder.

(b) No person shall enter into a contract for sale with an overseas buyer for the purposes of export unless he holds a valid export licence:

Provided however, that where the Jt. Chief Controller of Imports and Exports so permits by way of Trade Notice a person may enter into a contract of sale with an overseas buyer for the purposes of export without holding a valid export licence but subject always to the terms and conditions of such Trade Notice.

(c) Every contract in which final price is not specified shall be construed as if the following clause was inserted therein *viz*:—

"The prices payable shall be within the range of the minimum and maximum prices fixed by the Textile Commissioner under clause 3 of the Cotton Control Order, 1955, in respect of Indian Cotton produced during the cotton season 1965-66."

SCHEDULE

(Figures in brackets indicate the approximate

Description of Cotton season 1965-66 (Roller Ginned)	Basic staple length in inches	Basic Minimum Price per quintal of 100 Kgms.	Basic maximum Price per quintal of 100 Kgms.	"OFF" allowances for class other than basic class in Rs.		
				Good	Fully good	Fine
1	2	3	4	5	6	7
		Rs.	Rs.			
Vidarbha M.P. Virnar	27/32"	247 (877)	312 (1109)	..	4 (14.22)	Basis
Moglai Jarilla	25/32"	223 (792)	287 (1022)	..	4 (14.22)	"
Khandesh Virnar	28/32"	254 (902)	326 (1160)	..	4 (14.22)	"
Digvijay "A"	28/32"	292 (1038)	370 (1316)	..	8 (28.45)	4 (14.22)
Digvijay "B"	26/32"	260 (924)	338 (1202)	..	4 (14.22)	Basis
Punjab American 320F	27/32"	258 (918)	323 (1150)	..	4 (14.22)	"
Punjab American H-14	28/32"	266 (945)	350 (1245)	..	4 (14.22)	"
Westerns*	26/32"	235 (836)	303 (1078)	..	4 (14.22)	"
Karunganni	28/32"	263 (935)	336 (1195)	..	4 (14.22)	"
Dholleras	24/32"	220 (781)	283 (1005)	..	4 (14.22)	"
Sanjay	26/32"	241 (856)	292 (1060)	..	4 (14.22)	"
Bengal Deshi** . . . . .	..	192 (684)	247 (879)	14 (49.79)	7 (24.79)	"
Oomras	20/32"	206 (734)	254 (905)	..	4 (14.22)	"
Mathia & Mungari . . . . .	..	196 (698)	249 (886)	..	4 (14.22)	"
Burl American	29/32"	287 (1019)	348 (1239)	..	4 (14.22)	"
L. 147	30/32"	292 (1037)	366 (1303)	..	4 (14.22)	"
Gaorani 6 & 12	28/32"	263 (935)	337 (1197)	..	4 (14.22)	"
AK 235 & 277	28/32"	263 (935)	337 (1197)	..	4 (14.22)	"
Kalyan	25/32"	227 (808)	297 (1057)	..	4 (14.22)	"
Jayadhar	28/32"	264 (938)	339 (1207)	..	4 (14.22)	"
Laxmi	29/32"	290 (1030)	364 (1294)	..	4 (14.22)	"
Cambodia "A"	1-1/32"	356 (1265)	436 (1550)	..	4 (14.22)	"
Cambodia "B"	1"	312 (1111)	389 (1385)	..	4 (14.22)	"
Cambodia "C"	30/32"	295 (1048)	365 (1296)	..	4 (14.22)	"
I. S. C. 67	1-1/8"	422 (1500)	..	..	10 (35.5)	"
Sea Island (Andrews)	1-3/16"	478 (1700)	..	..	10 (35.5)	"

*Adoni-com if certified as such by the State Department of Agriculture will be entitled to a

**Certified Rani-Ben (UP-1) cotton if recognised as such will be entitled to a premium of

'A''

price in Rupees per candy of 784 lbs.)

"ON" allowances for class other than basic class in Rs.		"OFF" allowances for staple below basic staple in rupees		"ON" Allowances for staple above basic staple in rupees			
Super-fine	Extra Superfine	2/32"	1/32"	1/32"	2/32"	3/32"	4/32"
8	9	10	11	12	13	14	15
4 (14.22)	8 (28.45)	13 (46.23)	7 (24.89)	7 (24.89)	13 (46.23)	..	..
4 (14.22)	8 (28.45)	9 (32.00)	3 (10.67)	6 (21.34)	13 (46.23)	..	..
4 (14.22)	8 (28.45)	13 (46.23)	7 (24.89)	7 (24.89)	18 (64.01)	..	..
Basis	4 (14.22)	12 (42.74)	6 (21.34)	11 (39.12)	17 (60.46)	..	..
4 (14.22)	8 (28.45)	..	6 (21.34)	7 (24.89)	14 (49.79)	23 (81.79)	..
4 (14.22)	8 (28.45)	13 (46.23)	6 (21.34)	6 (21.34)	13 (46.23)	20 (71.12)	..
4 (14.22)	8 (28.45)	17 (60.46)	8 (28.45)	11 (39.12)	18 (64.01)	25 (88.90)	..
4 (14.22)	8 (28.45)	13 (46.23)	6 (21.34)	6 (21.34)	13 (46.23)	20 (71.12)	..
4 (14.22)	8 (28.45)	15 (53.34)	7 (24.89)	7 (24.89)	13 (46.23)	21 (74.67)	..
4 (14.22)	8 (28.45)	15 (53.34)	7 (24.89)	6 (21.34)	12 (42.67)	..	..
4 (14.22)	8 (28.45)	26 (92.46)	16 (56.19)	7 (24.89)	15 (53.34)	..	..
14 (49.79)	28 (99.57)	..	..	..	..	..	..
7 (24.89)	13 (46.23)	11 (39.12)	6 (21.34)	6 (21.34)	13 (46.23)	..	..
7 (24.89)	13 (46.23)	..	..	..	..	..	..
4 (14.22)	8 (28.45)	..	6 (21.34)	7 (24.89)	14 (49.79)	..	..
4 (14.22)	8 (28.45)	..	9 (32.00)	10 (35.50)	21 (74.67)	..	..
4 (14.22)	8 (28.45)	14 (49.79)	8 (28.45)	6 (21.34)	13 (46.23)	..	..
4 (14.22)	8 (28.45)	14 (49.79)	8 (28.45)	6 (21.34)	13 (46.23)	..	..
4 (14.22)	8 (28.45)	..	4 (14.22)	6 (21.34)	12 (42.68)	19 (67.57)	..
4 (14.22)	8 (28.45)	13 (46.23)	7 (24.89)	6 (21.34)	13 (46.23)	..	..
4 (14.22)	8 (28.45)	19 (67.57)	11 (39.12)	7 (24.89)	14 (49.69)	23 (81.79)	..
4 (14.22)	8 (28.45)	..	..	19 (67.57)	47 (169.36)	..	..
4 (14.22)	8 (28.45)	..	9 (32.00)	28 (99.57)	51 (180.00)	77 (279.00)	..
4 (14.22)	8 (28.45)	15 (53.34)	8 (28.45)	9 (32.00)	19 (67.57)	29 (103.12)	..
10 (35.5)	20 (71.00)	..	..	28 (99.57)	56 (199.14)	..	..
10 (35.5)	20 (71.00)	..	..	28 (99.57)	56 (199.14)	84 (298.71)	..

premium of Rs. 7/- per quintal.

Rs. 20/- per quintal provided the staple is not below 24/32".

(NOTE TO THE SCHEDULE OF PRICES)

NOTE I.—In case of improved varieties of cotton approved by the State Department of Agriculture, if they are certified to have been grown in areas reserved by the Agriculture Department of the State concerned for the purpose of procuring pure seed for sowing and the crop has been duly rogued by removing off-type plants, the basic maximum price specified in column(4) above, for the particular description of cotton shall be deemed to be increased by Rs. 14.00 per quintal (Rs. 50 per candy approximately). This increase will also be admissible in respect of 'Agmarked' cotton bearing the Red and Green Labels (purity not less than 98 per cent). In respect of Cambodia 'A' Cotton grown in the Madras State and certified by the Department of Agriculture under the superior Cotton Certification Scheme, the maximum price specified in Schedule 'A' will be increased by Rs. 14.00 per quintal (Rs. 50 per candy approximately). For 'Agmarked' cotton bearing the Black Label (purity not less than 95 per cent.) the maximum prices specified in column (4) above shall be deemed to be increased by Rs. 7.00 per quintal (Rs. 25 per candy approximately).

NOTE II.—The prices of Bengal Deshi specified in Schedule 'A' shall be increased by Rs. 9 per quintal (Approximately Rs. 30 per candy), if it is saw-ginned. The premium for saw-ginned cotton over roller-ginned cotton of other staple varieties will be Rs. 14.00 per quintal (Rs. 50 per candy approximately) at the floor level and Rs. 21.00 per quintal (Rs. 70 per candy approximately) at the ceiling level.

NOTE III.—The prices specified in Schedule 'A' will be reduced for cotton which appears to have been deliberately mixed and/or deliberately watered. In such cases, the minimum and maximum prices shall be reduced by an approximate amount to be determined by the Committee specified in Schedule 'B' after examining the sample submitted for survey by the buyer for the seller.

NOTE IV.—The Cotton grown in the Districts of Ahmednagar, Poona and Sholapur of Maharashtra State, Bijapur district of Mysore State and Summer Cambodia Uganda Crop grown in Madras State and which move in the months of July/August will be treated as new crop.

SCHEDULE 'B'

- Shri R. G. Saraiya, C/o M/s. Narandas Rajaram & Co., Private Limited, Bombay.
- Shri Jehangir P. Patel, C/o, M/s. Patel Vokart Private Ltd., Bombay.
- Shri Nariman Contractor, C/o, M/s Tata Industries Ltd., Bombay.
- Shri Pratapsinh Mathuradas, C/o Vishnu Laxmi Group of Mills, 9, Wallace Street, Bombay.
- Shri Hansraj Jivandas, C/o, M/s. Khimji Visram & Sons, Bombay.
- Shri Tricumdas Chhabildas, C/o, M/s. Thackersey Moolji Group of Mills, Bombay.
- Shri Manubhai N. Amersey, C/o, M/s. Amersey Damodar, Bombay.
- Shri Dayaljiibhai G. Patel, Village Delad, Taluka Sayan, Surat District.
- Shri K. M. Patil, Jalgaon (East Khandesh).
- Shri Thakur Naharsingh, Badnera.
- Shri R. V. Sirur, P.O. Box No. 16, Hubli, and
- Shri R. D. Shah, Cotton Adviser, Office of the Textile Commissioner, Bombay.

ANNEXURE 'A'

Return in respect of stocks of Indian Cotton at the end of
in respect of this Notification

Full name of the Licence Holder

Address Licence No. A

.....

Instructions

1. The quantity of cotton to be shown below shall include both the loose ginned cotton and pressed cotton and indicated in metric bales of 180 kgs. each.
2. The description of cotton given hereunder should be in accordance with the description of cotton listed in Schedule "A" and NOT in any other manner.
3. The form below should be filed in and submitted to reach the Cotton Cell, Economic Branch, Office of the Textile Commissioner, Bombay, by the 10th of the month following the month to which the return relates.
4. If there are no figures to be furnished, a NIL Return should invariably be sent.

Sl.
No. Description

Actual Stocks held on the last day of the month

		Own A/c.			Client's A/c			Total
		Unsold	Sold but not delivered	Total	Unsold	Sold but not delivered	Total	Col. (5)+ Col. (8)
1	2	3	4	5	6	7	8	9

Details as per
Schedule 'A'.

I do hereby declare that I have compared the above particulars with the records and books of my office and that they are, in so far as I can ascertain, accurate and complete.

DATE :

Signature of the Licence-Holder.

PLACE :

R. DORAISWAMY,
Textile Commissioner.

[No. F.11(1)-Tex(A)/65.]

T. S. KUNCHITHAPATHAM, Dy. Secy.

(Office of the Jt. Chief Controller of Imports and Exports)

ORDER

Calcutta, the 25th May 1965

S.O. 2300.—Whereas M/s. Bithaldas Binani, 43, Strand Road, Calcutta, or any Bank or any other person have not come forward furnishing sufficient cause against Notice No. 89/61/I&L dated 3rd September 1964 proposing to cancel licence No. P/EI/0033834/C/XX/19/C/C/19-20 dated 30th April, 1964 valued at Rupees Nineteen thousand Five hundred and twelve only (Rs. 19,512/-) for the import of Zinc or spelter unwrought in the form of Ingots Cake Tile and slabs from the General Area except South and South West Africa, granted to the said M/s. Bithaldas Binani, 43, Strand Road, Calcutta, by the Joint Chief Controller of Imports and Exports, Calcutta.

The Government of India, in the Ministry of Commerce in exercise of the powers conferred by Clause 9 of the Imports (Control) Order, 1955, hereby cancel the said licence No. P/EI/0033834/C/XX/19/C/C/19-20 dated 30th April, 1964 issued to M/s. Bithaldas Binani, 43, Strand Road, Calcutta.

[No. 89/61/I&L.]

P. K. GHOSH, Dy. Chief Controller.

MINISTRY OF FOOD & AGRICULTURE

(Department of Agriculture)

New Delhi, the 15th July 1965

S.O. 2301.—In exercise of the powers conferred by the Constitution, the President hereby makes the following rules to amend the Directorate of Extension (Class III and Class IV Posts)—Recruitment Rules, 1964, namely:—

- (1) These rules may be called the Directorate of Extension (Class III and Class IV Posts) Recruitment (Second Amendment) Rules, 1965.
- (2) In the Directorate of Extension (Class III and Class IV Posts) Recruitment Rules, 1964, against the post of Graphotype Operator, for the entries in columns 10 and 11, the following entries shall be substituted, namely:—

10

11

“By promotion, failing which by direct recruitment.

Promotion
Addressograph Operator with three year's service in the grade”.

[No. F. 15-65/60-AE.]

SANTOKH SINGH, Under Secy.

MINISTRY OF HEALTH*New Delhi, the 14th July 1965*

S.O. 2302.—Whereas the Inter University Board have, in pursuance of provisions of clause (a) of section 3 of the Pharmacy Act, 1948 (8 of 1948), elected the following persons to be members of the Pharmacy Council of India, with effect from the 25th March, 1965, namely:—

1. Prof. M. L. Khorana, B.Sc., B.S. (Pharm), M.S. (Mich), Head of the Section of Pharmaceutical and Fine Chemicals, Department of Chemical Technology, University of Bombay, Bombay-19.
2. Dr. V. Subha Rao, M.Sc., D.Sc. (Andhra), Ph.D. (Manchester), A.R.I.C., Head of Pharmacy Department, Andhra University, Waltair.
3. Prof. A. R. Govinda Rao, M.S., Professor in Pharmacology, Madras Medical College, Madras.
4. Prof. S. Prasad, D.Sc., Ph.D., Professor in Pharmacy Department, Banaras Hindu University, Varanasi.
5. Dr. M. C. Nath, D.Sc., F.N.I., F.R.I.C. F.I.C., Professor and Head of Department of Biochemistry, Nagpur University, Nagpur.
6. Dr. R. M. Kasliwal, M.D., M.R.C.P., D.T. M. & H., Dean, Faculty of Medicine, Principal, S.M.S. Medical College, Jaipur.

And whereas the Medical Council of India have in pursuance of the provisions of clause (c) of section 3 of the said Act elected Dr. Y. B. Magrulkar, M.B.B.S., D.P.H., D.T.M., Park Corner, Dhantoli, Nagpur-1, to be a member of the Pharmacy Council of India, with effect from the 6th February, 1965;

And whereas the Andhra Pradesh Pharmacy Council have in pursuance of clause (g) of section 3 of the said Act elected Sri M. Achayya, B. Com., Messrs. Manyam Medical Stores, Kovvur, West Godavari District, to represent that State in the Pharmacy Council of India with effect from the 9th February, 1965;

Now, therefore, in pursuance of the provisions of section 3 of the Pharmacy Act, 1948 (8 of 1948), the Central Government hereby directs that Professor M. L. Khorana, Dr. M. C. Nath and Dr. Y.B. Magrulkar shall continue to be members of the Pharmacy Council of India and makes the following amendments in the

notification of the Government of India in the Ministry of Health No. F. 7-23/59-D, dated the 21st December, 1959, namely:—

In the said notification—

- (i) under the heading "Elected by the Inter University Board, under clause (a)", for the existing entries against serial Nos. 2 to 5, the following entries shall be substituted, namely:—
 - "2. Dr. V. Subha Rao, M.Sc., D. Sc. (Andhra), Ph.D. (Manchester), A.R.I.C., Head of Pharmacy Department, Andhra University, Waltair.
 3. Prof. A. R. Govinda Rao, M.S., Professor in Pharmacology, Madras Medical College, Madras.
 4. Prof. S. Prasad, D.Sc., Ph.D., Professor in Pharmacy Department, Banaras Hindu University, Varanasi.
 5. Dr. R. M. Kasliwal, M.D., M.R.C.P., D.T., M. & H., Dean, Faculty of Medicine, Principal, S.M.S., Medical College, Jaipur."
- (ii) under the heading "Elected by the State Pharmacy Councils under clause (g)", for the existing entry against Serial No. 1, the following entry shall be substituted, namely:—
 - "1. Shri M. Achayya, B.Com., Messrs. Manyam Medical Stores, Kovvur, West Godavri District (Andhra Pradesh)."

[No. F. 6-26/64-MPT.]

New Delhi, the 16th July 1965

S.O. 2303.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule,

- (i) in the entries relating to the University of Calcutta, after the entry "Diploma in Maternity and Child Welfare D.M.C.W. Cal.," the following entry shall be inserted, namely:—
"Diploma in Public Health D.P.H. Cal."
- (ii) in the entries relating to the University of Rajasthan, after the entry "Master of Surgery (Ophthalmology) M.S. (Ophth.), Rajasthan", the following entry shall be inserted, namely:—
"Master of Surgery (Obstetrics and Gynaecology).....
M.S. (Obst. and Gyn.), Rajasthan."

[No. F. 32-86/64-MPT.]

B. B. L. BHARADWAJ, Under Secy.

MINISTRY OF EDUCATION

New Delhi, the 12th July 1965

In the matter of the Charitable Endowments Act, 1890.

AND

In the matter of the National Foundation for Teachers' Welfare.

S.O. 2304.—In pursuance of paragraph 3 of Schedule B to the notification of the Government of India in the Ministry of Education No. S.O. 1955 dated the 25th June, 1962 and in supersession of the notification of the Government of India in the Ministry of Education No. S.O. 2231, dated the 4th June, 1964, the following appointments of the Chairman and Members of the General Committee for the National Foundation for Teachers' Welfare are hereby notified, namely:—

Chairman

1. Shri M. C. Chagla, Minister of Education, Government of India.

Vice-Chairman

2. Shri P. N. Kirpal, Secretary (Education) to the Government of India, Ministry of Education.

Members

3. Shri G. K. Chandiramani, Additional Secretary to the Government of India, Ministry of Education.
4. Dr. D. S. Kothari, Chairman, University Grants Commission, Delhi.
5. Professor D. C. Sharma, Member of Parliament, New Delhi.
6. Smt. Durgabai Deshmukh, C/o India International Centre, New Delhi.
7. Shri Raman B. Amin, M/s. Alembic Chemical Works, Baroda.
8. Shri Prem Narain, Deputy Secretary to the Government of India, Ministry of Finance, New Delhi.

Secretary-Treasurer

9. Dr. P. D. Shukla, Joint Educational Adviser to the Government of India, Ministry of Education, New Delhi.

[No. F. 28/28/65-NS.4.]

A. K. GHOSH, Secy.

*(ARCHAEOLOGY)**New Delhi, the 12th July 1965*

S.O. 2305.—Whereas the Central Government is of opinion that the archaeological sites and remains specified in the Schedule attached hereto are of national importance;

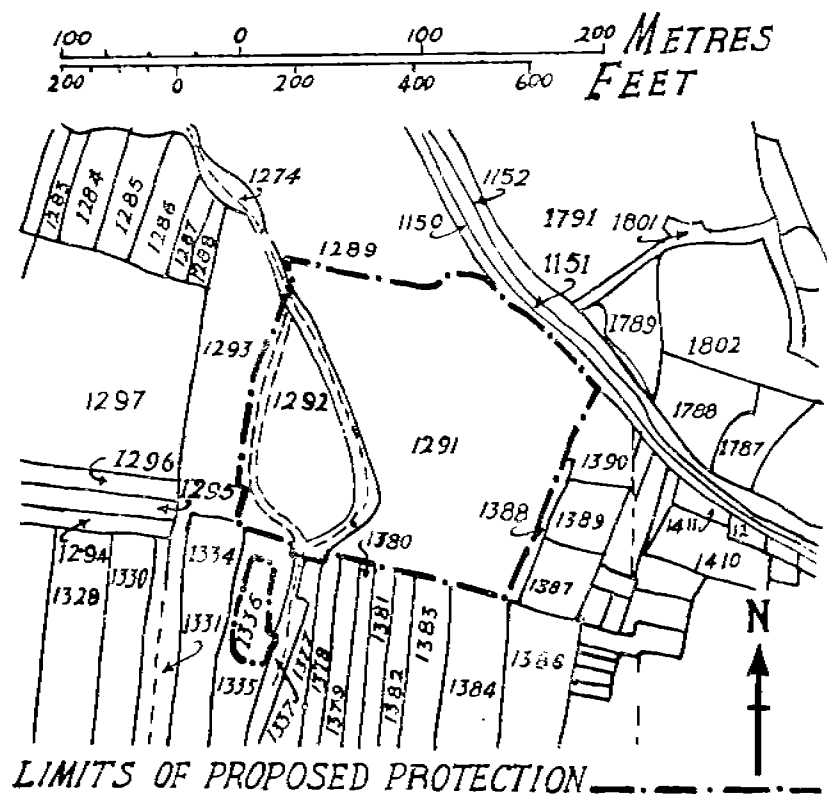
Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives notice of its intention to declare the said archaeological sites and remains to be of national importance.

Any objection made to the Secretary, (Ministry of Education) within two months of the issue of this notification by any person interested in the said archaeological sites and remains will be considered by the Central Government.

THE SCHEDULE

Sl. No.	State	District	Tehsil	Locality	Name of site	Revenue plot number to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10	11
1	Uttar Pradesh	Basti	Nowgarh	Tola Ganwaria in Birdpur No. 1, West of Birdpur Frontier Road	Ancient site comprised in (i) survey plot Nos. 1291, 1292, part of Survey plot No. 1274, and (ii) survey plot No. 1336	(i) Survey plot Nos. 1291, 1292, part of Survey plot No. 1274, and (ii) Survey plot No. 1336, as shown in the plan reproduced below.	5.97 acres	(i) <i>North</i> : Survey plot Nos. 1289 and 1150 (canal bank). <i>East</i> : Survey plot Nos. 1390 and 1338. <i>South</i> : Survey plot Nos. 1335, 1337, 1377, 1378, 1379, 1380, 1381, 1382, 1383, and 1384. <i>West</i> : Survey plot No. 1293 and remaining portion of Survey plot No. 1274. (ii) <i>North</i> : Survey plot No. 1335. <i>East</i> : Survey plot No. 1335 & 1337 (road). <i>South</i> : Survey plot No. 1335. <i>West</i> : Survey plot No. 1335.	Survey plot Nos. 1291 and 1292 are privately owned and the remaining area is Government property.	
2	Do.	Do.	Do.	Tola Salargarh South-west of Siswa Tal near Nepal India Border.	Ancient site comprised in Survey plot No. 2788.	Survey plot No. 2788	0.41 acre	<i>North</i> : Survey plot No. 2789. <i>East</i> : Survey plot No. 2789. <i>South</i> : Survey plot No. 2789. <i>West</i> : Survey plot No. 2789.	Private	

PLAN OF ANCIENT SITE AT GANWARIA



[No. F. 4-14/65. C.1.]
SHARDA RAO, (MRS.),
Assistant Educational Adviser.

MINISTRY OF WORKS AND HOUSING

New Delhi, the 9th July 1965

S.O. 2306.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the officers mentioned in column I of the table below, being gazetted officers of Government, to be estate officers for the purposes of the said Act who shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entries in column 2 of the said table.

THE TABLE

Designation of officers	Categories of public premises and local limits of jurisdiction.
I	2
1. Administrative Officer, India Security Press, Nasik Road.	Premises under the administrative control of the Master, India Security Press, Nasik Road.
2. Accounts Officer, Security Paper Mill Project, Hoshangabad.	Premises under the administrative control of the General Manager, Security Paper Mill Project, Hoshangabad, including the land acquired for the railway siding of the Project.
3. Accounts Officer, India Government Mint, Hyderabad.	Premises under the control of the Master, India Government Mint, Hyderabad.
4. Accounts Officer, India Government Mint, Bombay.	Premises under the administrative control of the Master, India Government Mint, Bombay.
5. Accounts Officer, India Government Mint, Alipore, Calcutta.	Premises under the administrative control of the Master, India Government Mint, Alipore, Calcutta.
6. Accounts Officer, Silver Refinery, Calcutta	Premises belonging to the Silver Refinery.

[No. F.32/9/65-Ac. II.]

B. M. LAL, Under Secy.

MINISTRY OF REHABILITATION

(Office of the Chief Settlement Commissioner)

New Delhi, the 9th July 1965

S.O. 2307.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 18 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints for the Union Territory of Delhi, Shri P. D. Soll, Assistant Settlement Officer in the office of the Regional Settlement Commissioner, New Delhi, as Managing Officer for the custody, management and disposal of compensation pool with effect from 20th November, 1964 (Afternoon).

[No. 8/43/ARG/64.]

New Delhi, the 12th July 1965

S.O. 2308.—In exercise of the powers conferred by Clause (a) Sub-Section (2) of Section 16 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints for the States of Maharashtra, Gujarat, Andhra Pradesh, Madras, Mysore and Kerala, Shri Madan

Lal, Assistant Settlement Officer in the office of Regional Settlement Commissioner, Bombay as Managing Officer for the custody, management and disposal of compensation pool with effect from the date he took over charge of his office.

[No. 8/67/AGZ/64.]

KANWAR BAHADUR,
Settlement Commissioner (A) and
Ex-Officio Dy. Secy.

(Office of the Regional Settlement Commissioner)

New Delhi, the 16th July 1965.

S.O. 2309.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the Union Territory of Delhi for public purposes, being a purpose connected with the Relief and Rehabilitation of Displaced Persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the D.P. (C. & R.) Act, 1954 it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

THE SCHEDULE

No.	Particulars of property		Area	Name of the evacuee with rights in the property
	Khewat No.	Khasra No.	Big-Biswas	
1	Village Chhaterpur			Ishaq and Badrul-Islam and Karam Khan
	100/126	4/1	2-II	S/o. Abdul Hakim in equal share 1/2,
		5	4-0	Iesa S/o Kehar 1/2 share, ownership right
				evacuee.
		Total	6-II	

[No. F.1(2)/L&R-65.]

M. J. SRIVASTAVA,
Settlement Commissioner & *Ex-Officio*
Under Secy.

DEPARTMENT OF SOCIAL SECURITY

New Delhi, the 14th July 1965

S.O. 2310.—In pursuance of paragraph 3 of the Coal Mines Provident Fund Scheme published with the notification of the Government of India in the late Ministry of Labour No. PF-15(5)/48, dated the 11th December, 1948, the Central Government hereby nominates Sarvashri A. C. Bose, Coal Controller, Calcutta and R. Lall, Deputy Chairman, Indian Mining Association, as Trustees of the Board of Trustees constituted by the Central Government under the said Scheme and makes the following further amendments in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2370 dated the 23rd September, 1961, namely:—

In the said notification,—

- (a) in item 3, for the entry "Shri A. K. Mitra, Deputy Coal Controller (Production), Calcutta", the entry "Shri A. C. Bose, Coal Controller Calcutta", shall be substituted;
- (b) in item 9, for the entry "Shri S. V. Raman, The East India Coal Co., Ltd., P.O. Jealgora, District Dhanbad", the entry "Shri R. Lall, Deputy Chairman, Indian Mining Association, Royal Exchange, 6, Netaji Subhas Road, Calcutta-1", shall be substituted.

[No. 4(50)62-PF-L1]

New Delhi, the 15th July 1965

S.O. 2311.—In exercise of the powers conferred by sub-section (1) of section 13 of Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri R. K. Rastogi *vice* Shri H. C. Mahapatra to be an Inspector for the whole of the State of Bihar for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20(63)/64-PF-I.]

New Delhi, the 17th July 1965

S.O. 2312.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri Nishiith Kumar Dhar to be an Inspector, for the whole of the State of West Bengal and the Union territories of Tripura and the Andaman and Nicobar Islands, for the purposes of the said Act or of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20(71)/64-PF-I.]

DALJIT SINGH, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

ORDERS

New Delhi, the 14th July 1965

S.O. 2313.—In pursuance of the Directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the films specified in column 2 of the Second Schedule annexed hereto in all their language versions to be of the description specified against each in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

- (1) Sub-Section (4) of Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XI of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the applicant	Name of the producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or documentary film
(1)	(2)	(3)	(4)	(5)	(6)
1	Maharashtra News No. 157 (Hindi and English).	302M	Directorate of Government of Bombay.	Publicity, Maharashtra,	Film dealing with news and current events (for release in Maharashtra Circuit only).
2	Udyache Sainik (Hindi & Marathi).	295.66 M		Do.	Film intended for educational purposes (for release in Maharashtra Circuit only).

[No. 24/1/65-FP, App. 1005.]

S.O. 2314.—In pursuance of the Directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the films specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against each in column 6 of the said second Schedule.

THE FIRST SCHEDULE.

- (1) Sub-Section (4) of Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XI of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film-intended for educational purposes or a film dealing with news and current events or a documentary film.
(1)	(2)	(3)	(4)	(5)	(6)
1	Mahitichitra No. 55	52 M	Director of Information, Government of Gujarat, Ahmedabad.		Film dealing with news and current events (for release in Gujarat Circuit only).
2	Nal Sarovar	304.80 M	Shri K. Premsinh Varma, C/o Shri S. A. Mehfooz, Mulund, Bombay-80.		Film intended for educational purposes (for release in Gujarat Circuit only).
3	Pani Pahela Pal	235.61 M	Director of Information, Government of Gujarat, Ahmedabad.		Do.

[No. 24/1/65-FP App. 1006.]

G. S. GUPTA, Dy. Secy.

MINISTRY OF INDUSTRY AND SUPPLY

(Department of Industry)

(Indian Standards Institution)

New Delhi, the 9th July 1965

S.O. 2315.—IS:2566-1965 Specification for B-Twill Jute Bags (Revised) has been added in Certification Marks Licence No. CM/L-966 with effect from 1 June, 1965. The details of this licence were published under S.O. 79 in the Gazette of India, Part II, Section 3(ii), dated 2 January, 1965.

[No. MD/6:12.]

New Delhi, the 14th July 1965

S.O. 2316.—In licence No. CM/L-189, dated 27th April 1960 held by M/s. Gautam Electric Motors Pvt. Ltd., New Delhi-19, the details of which are published under S.O. 2172 in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 20th June 1964, the list of articles has been revised as under with effect from 8th July 1965:

Three phase induction motors from 1 HP to 25 HP with Class 'A' and 'E' insulation.

[No. MD/12:380.]

S.O. 2317.—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks Regulations, 1955, as amended in 1961, 1962 and 1964, the Indian Standards Institution hereby notifies that amendment(s) to the Indian Standard(s), given in the Schedule hereto annexed, have been issued under the powers conferred by sub-regulation (i) of regulation 3 of the said regulations.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard amended	No. and Date of Gazette Notification in which the establishment of the Indian Standard was notified.	No. and Date of the Amendment	Brief particulars of the Amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)	(5)	(6)
1	IS:1002-1956 Specification for multi-purpose grease, No. 1, No. 2 and No. 3,	S.R.O. 2423 dated 27 July, 1957	No. 1 April 1965	The existing values appearing in the standard have been substituted by metric values.	1 August, 1965
2	IS:1441-1960 Specification for insulator stalks for telegraph and telephone lines	S.O. 1572 dated 25 June 1960	No. 2 April 1965	Reference to IS:728-1956 methods for determination of weight, thickness and uniformity of coating on galvanized articles other than wires and sheets, wherever appearing, have been substituted by reference to IS:2633-1964 Methods of testing weight, thickness and uniformity of coating on hot dipped galvanized articles.	1 August 1965
3	IS:2486 (Part I)—1963 Specification for insulator fittings for overhead power lines of 3.3 K V and above Part I General requirements tests.	S.O. 280 dated 25 January 1965	No. 1 April 1965		
4	IS:2544-1963 Specification for porcelain post insulators (3.3 KV, and above)	S.O. 1840 dated 30 May 1964	No. 1 April 1965		
5	IS:2596-1964 Specification for bulbs (lamps) for miners cap-lamps.	S.O. 1840 dated 30 May 1964	No. 1 January 1965	Clause 0.3 has been amended.	1 August 1965

Copies of these amendment slips are available, free of cost, with the Indian Standards Institution, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-1 and also its branch offices at (i) Bombay Mutual Terrace, First Floor, 534 Sardar Vallabhbhai Patel Road, Bombay 7, (ii) Third and 4th Floors, 5 Chowringhee Approach, Calcutta-13, (iii) Second Floor, Sathyamurthi Bhavan, 54 General Patters Road, Madras-2 and (iv) 14/69 Civil Lines, Kanpur.

[No. MD/13:5.]

D. V. KARMARKAR,
Joint Director (Marks)

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th July 1965

S.O. 2318.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the North Jhagrakhand Colliery, P.O. Jhagrakhand, Distt. Sarguja, Madhya Pradesh and their workmen which was received by the Central Government on the 8th July 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE CGIT No. 103 of 1964

Employers in relation to the North Jhagrakhand Collieries Private Limited

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant,—Presiding Officer.

For the Employers—The Manager, and the Group Personnel Officer, Jhagrakhand Colliery.

For the workmen—Azad Koyla Shramik Sabha.

At Bombay dated this 3rd day of July 1965

INDUSTRY: Coal Mining

STATE: Madhya Pradesh

AWARD

1. The Central Government by the Ministry of Labour and Employment's Order No. 5/24/64-LRII dated 19th December, 1964, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above named, in respect of the subject-matters specified in the following schedule to the said order, to me for adjudication:

SCHEDULE

“Whether the management of North Jhagrakhand Colliery of Jhagrakhand Collieries Private Limited were justified in dismissing from service (i) Shri Ram Das, s/o Sukhram and (ii) Shri Peary Ahir, Miners? If not, to what relief are the workmen entitled?”

2. After the written statements were filed by the parties, by a joint application dated 13th June, 1965, signed on behalf of the Employers by the Manager of the North Jhagrakhand Colliery and Shri G. R. Bhandari, the Group Personnel Officer of the Colliery, and on behalf of the workmen by Shri B. V. Boral, General Secretary and Shri Abhiman Singh, Vice-President, Azad Koyla Shramik Sabha, the parties forwarded an agreement also dated 13th June, 1965, entered into by them in settlement of this dispute, in which they have prayed that an award be made in terms of the said settlement. A copy of the said settlement is attached hereto and marked Annexure 'A'. As the terms of settlement appear, in the facts and circumstances of the case, to be fair and reasonable, I accept the same and make an award in terms thereof.

3. No order as to costs.

Sd/- SALIM M. MERCHANT,

Presiding Officer.

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL BOMBAY

IN THE MATTER OF REFERENCE NO. CGIT—103 OF 1964

AND

In the matter of an Industrial Dispute over alleged wrongful dismissal of Shri Ramdas, S/o Sakham and Shri Piyare S/o: Meharsai, miners of North Jhagrakhand Colliery.

BETWEEN

The Employers in relation to the North Jhagrakhand Colliery of M/s. Jhagrakhand Collieries (P) Ltd.

AND

Their workmen represented by the Azad Koyla Shamik Sabha, P.O. Jhagrakhand Distt. Surguja, (M.P.)

The joint petition of the parties above named most respectfully shewth:

1. Agreed that Shri Ramdas S/o. Sakham will be re-employed as a miner within 10 days from the date of publication of the award in this reference. The workman will not be entitled to wages or any other benefit for the period up to the date of his re-employment.
2. Agreed that the Union will not press for the re-instatement of Sri Piyare Ahir S/o: Meharsai. It is further agreed that he will not be entitled to any relief and he will stand dismissed with effect from 14th June, 1964.
3. The parties jointly pray that this reference may kindly be disposed of in terms of this settlement and an award given accordingly.
4. The parties will bear their own cost.

Signed at Jhagrakhand Colliery on the 13th day of June 1965.

For the Workmen

1. Sd/- B. BORAL,
General Secretary,
Azad Koyla Shramik Sabha.
2. Sd/- ABHIMAN SINGH,
Vice President,
Azad Koyla Shramik Sabha.

For the Employers

1. Sd/- K. N. SHRIVASTAVA,
Manager,
North Jhagrakhand Colliery
2. Sd/- G. R. BHANDARI,
Group Personnel Officer,
Jhagrakhand Collieries.

Witnesses:

1. Sd/- THANWARDAS P. K.
Labour Inspector (c) Chirmiri:
2. Sd/- R. R. SINGHVI,
Welfare Officer, Jhagrakhand Colliery.

[No. F.5/24/64-LRII.]

New Delhi, the 14th July, 1965

S.O. 2319.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Newton Chickli Colliery Post Office Parasla and their workmen which was received by the Central Government on the 9th July, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY.

REFERENCE No. C.G.I.T. 25 OF 1965.

Employers in relation to the Newton Chickli Colliery, Parasia,

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant,—*Presiding Officer.**For the Employers.*—Shri B. P. Dabral, Group Labour Officer.*For the Madhya Pradesh Koyla Khadan Mazdoor Sangh, Parasia.*—Shri D. H. Dharap, Pleader, with Shri V. N. Dutta, General Secretary.*For the Young India Khadan Mazdoor Trade Union.*—Shri A. R. Faruki, President.

At Bombay, dated this 6th day of July, 1965.

INDUSTRY: Coal Mining.

STATE: Madhya Pradesh.

AWARD

1. The Central Government, by the Ministry of Labour and Employment's Order No. 5/9/65 LRII dated 24th March, 1965, made in exercise of the powers conferred by clause (d) of subsection (1) of section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947) was pleased to refer the industrial dispute between the parties above-named in respect of the subject matters specified in the following schedule to the said order, to me for adjudication.

SCHEDULE

- "1. Whether the management is justified in retrenching 63 coal cutters mazdoors as notified by them in their notice dated the 17th February, 1965. If not, to what relief are the workmen entitled?
2. Whether the management is justified in proposing to retrench 12 timbermen mazdoors as notified by them in their notice dated the 25th February, 1965. If not, to what relief are the workmen entitled?"

2. After the dispute was referred, it was only the General Secretary, The Rashtriya Koyla Khadan Mazdoor Sangh (hereinafter referred to as the Sangh) who filed its written statement of claim and prosecuted this reference. In fact, the Sangh had originally raised this dispute and prosecuted it during conciliation proceedings, and got it referred for adjudication.

3. The Sangh entered into a settlement with the present management of the Newton Chickli Colliery, dated 1st June, 1965, a duplicate copy of which was forwarded to the Tribunal by a joint application of the Group Labour Officer of the Employer Company and of the President of the Sangh, dated 2nd June, 1965, a copy of which is annexed hereto and marked Annexure 'A'. Thereupon, I issued a notice on the parties to show-cause why an award should not be made in terms of the settlement and made it returnable on 28th June, 1965, when Shri A. R. Faruki, President of the Young India Khadan Mazdoor Trade Union (hereinafter referred to as the Union) filed a written statement on merits, dated 28th June, 1965, and opposed the settlement between the management and the Sangh being accepted. Now, the Union had not taken any part in this reference since it was made on 24th March, 1965. I am satisfied that the settlement entered into by the Sangh with the present management of the Newton Chickli Colliery on 1st June, 1965, is *bona-fide* and appears, in the circumstances of the case, to be in the workers' best interests, and I am satisfied that the opposition to it of the Union is unjustified. The Union had not raised this dispute, nor had it prosecuted it during conciliation proceedings, nor interested itself in it after it was referred to this Tribunal for adjudication, and it has come on the scene only on the last date of the hearing to oppose the settlement dated 1st June 1965, which has been entered into with the present management by the Sangh. It is further interesting to note that the registration of the Union was cancelled by an order of the Registrar, Trade Unions, Madhya Pradesh, dated 23rd July, 1964. No doubt the Union has filed an appeal against that order in the Madhya Pradesh Labour Court and the same is pending. But that does not alter the circumstance that the Union has not till almost the end of these proceedings, interested itself at all in this dispute. In the circumstances, for the reasons stated earlier, I am

not satisfied that the opposition of the Union to the settlement reached between the Sangh and the present management as recorded in their terms of settlement dated 1st June, 1965, is fair, reasonable or justified. In the facts and circumstances of the case, the terms of settlement dated 1st June, 1965 appear to be fair and reasonable, and in the interest of industrial peace, and I make an award in terms thereof. A copy of the settlement dated 1st June, 1965 is annexed hereto and marked Annexure 'B'.

4. No order as to costs.

Sd./- SALIM M. MERCHANT,
Presiding Officer.

ANNEXURE 'A'

To

1. The Secretary to the Government of India, Ministry of Labour and Employment, New Delhi.
2. The Chief Labour Commissioner (Central) New Delhi.
3. The Regional Labour Commissioner (Central) Jabalpur.
4. The Conciliation Officer (Central), Jabalpur.
P.O. Newton Chickli (M.P.), Dt. 2nd, June, 1965.

Dear Sirs,

Enclosed please find a memorandum of agreement which may kindly be registered at your end.

Thanking you,

Yours faithfully,
for The Newton Chickli Collieries (P) Ltd.

Sd./- B. P. DABRAL,
Group Labour Officer.
for M. P. Rashtriya Koyla Khadan
Mazdoor Sangh,

Encl: One Agreement.

Newton Chickli Branch,
Sd./- P. S. KSHIRSAGAR,
President.

ANNEXURE 'B'

MEMORANDUM OF SETTLEMENT.

PARTIES:

Employers in relation to Newton Chickli Collieries through their authorised representative Shri U. P. Chanchani and their Group Labour Officer Shri B. P. Dabral.

AND

Workmen of Newton Chickli Collieries through M/s. M. P. Rashtriya Koyla Khadan Mazdoor Sangh represented by Dr. (Mrs.) Seeta Parmanand, Shri Baldeo Prasad Sharma and Shri V. N. Datta, its President, Vice President and General Secretary, respectively.

Citation of the dispute.

The management had as per their notices dated 17th and 25th February, 1965 retrenched 61 Coal Cutters and 12 Timber Mazdoor to which the Union had raised an objection. This matter is now before the Central Government Industrial Tribunal, Bombay. The Union had, besides, raised certain grievances as per their letter dated 10th March, 1965. Meanwhile the management had changed hands and the new management offered to discuss the entire issues afresh with the Union. The Union having agreed to it, various issues were discussed in the most cordial atmosphere. Two settlements dated 11th May, 1965 and 14th May, 1965 have already been drawn up where the management has agreed to concede 10 demands of the workmen. The issue of retrenchment has also been discussed and its inevitability explained by the management to Union Representatives. In

view of these explanations, (1) coupled with the fact that most of the retrenched workmen have gone away after taking their retrenchment dues, (2) also out of a desire of establishing good labour relations with the new management (3) and after a promise by the management that all new vacancies in the mines requiring this type of labour will be filled not only as a legal stipulation but on humanitarian grounds from amongst these workers and it will make a sincere effort to fulfil this, the parties have agreed to the following settlements:—

Terms of Settlement.

(1) Agreed that the Union would withdraw the dispute covered by reference No. CGIT-25 of 1965, now pending before the Hon'ble Central Government Industrial Tribunal, Bombay.

(2) Agreed that in the event of there being any vacancies in further in the categories of coal cutters and timber mazdoors the retrenched persons would be given preference.

(3) Agreed that Shri Ram Dayal who has not accepted retrenchment benefit and final dues, may be taken back on a category V job in consultation with the Union, with continuity of service, the intervening period to be taken as leave without pay.

As a token of goodwill the management agrees to pay a sum of Rs. 100.00 (Rs. one hundred) only *ex gratia* to the workmen.

(4) Agreed that the copies of this settlement be sent to the various authorities under Rule 58(4) of the Industrial Disputes Rules 1957.

(5) Agreed that a copy of this settlement be filed before the aforesaid Tribunal with a request to treat the dispute as withdrawn/settled.

For the management.

1. Sd./- U. P. CHANCHANI.
2. Sd./- B. P. DABRAL.

For Workmen

1. Sd./- SEETA PARMANAND.
2. Sd./- B. P. SHARMA.
3. Sd./- V. N. DATTA.

Witnesses.

1. Sd./- B. C. SANGHI.
- Dt. 1st June, 1965.

- (2) Sd./- P. KSHIRSAGAR.

[No.5/9/65-RLII.]

ORDERS

New Delhi, the 14th July. 1965.

S.O. 2320.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the East Baraboni and Poniat Baraboni Collieries P.O. Charanpur, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (1) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

(1) Whether the management of East Baraboni Coal Company (P) Limited and H. K. Nag's Poniat Baraboni Colliery was justified in dismissing the 4 workmen mentioned below, with effect from 15th January, 1964?

- (1) Shri Shyamdhari Rajbhar.
- (2) Shri Sevak Kurmi.
- (3) Shri Nami Bhar.
- (4) Shri Deosaran Rajbhar.

(2) If not, to what relief are they or any of them entitled?

[No. 6/18/64-LRII.]

New Delhi, the 16th July 1965

S.O. 2321.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the North Badjna Colliery, Post Office Nirsachatti (District Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of the workers whose names are given below, with effect from the 6th June, 1964, by the management of North Badjna Colliery was justified? If not, to what relief are they entitled?

1. Sri Mati Roy.
2. Sri Modhu Turi.
3. Sri Guli Turi.
4. Sri Chutu Singh.
5. Sri Satish Gorai.
6. Sri Basdeb Turi.
7. Sri Bishu Turi.
8. Sri Bhola Singh.
9. Sri Ch. Sahadev Turi.
10. Sri Lalchand Missir.
11. Sri Maroo Turi.
12. Sri Abdul Mia.
13. Sri Gopal Turi.
14. Sri Durlav Gorai.
15. Sri Huru Turi.
16. Sri Raman Baouri.
17. Sri Rampayara Gope.
18. Sri Bahadur Singh.
19. Sri Kirty Roy.
20. Sri Dhaneswar Turi.
21. Sri Lekha Turi.

[No. 1/28/64-LR-II.]

S.O. 2322.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Jamuria 7/8 Pits Colliery of M/s. Equitable Coal Co., Ltd., P.O. Dishergarh, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management was justified in transferring Shri Bhola Sonar Driller of Jamuria 7/8 Pits Colliery to Jamuria 5/6 Pits Colliery as machine mazdoor-cum-driller? If not, to what relief is the workman entitled for the period of his un-employment?

[No. 6/86/65-LRII.]

S.O. 2323.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Baragolai Colliery of M/s. Assam Railways and Trading Co. Ltd., Margherita and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of Assam Railways and Trading Co. Ltd. Margherita in fixing the basic pay of Shri Lalmon Ahir, Mining Sirdar, Grade II at Rs. 52/- per month in the scale of Rs. 52-3-73 with effect from the 1st November, 1963 was justified? If not, to what relief is the workman entitled?

No.[6/87/65-LR-II.]

New Delhi, the 19th July, 1965.

S.O. 2324.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Malkera-Choitodih Colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE.

(1) Whether the management of the Malkera Choitodih Colliery (of Messrs Tata Iron and Steel Company Limited) are justified in refusing to pay return railway fare to the workmen who are absent after the expiry of leave for more than seven days without permission during the period of three months from the date of their rejoining duty?

(2) If not, to what relief are the workmen entitled?

[No. 1/13/65-LR-II.]

H. C. MANGHANI, Under Secy.

New Delhi, the 13th July 1965

SO. 2325.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in respect of an industrial dispute between the management of the Comptoir National D'Escompte de Paris (French Bank) and their workmen which was received by the Central Government on the 19th June, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE CGIT No. 37 of 1964

Employers in relation to the Comptoir National D'Escompte de Paris, (French Bank) Homji Street, Bombay-1

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant,—Presiding Officer.

For the employers—Shri R. Setlur, Solicitor of M/s. Crawford Bailey & Co., Solicitors, with Shri N. R. Pandit, Secretary and Legal Adviser, Labour Secretariat of Banks of India, with Shri A. Bourgault, Manager for India.

For the workmen—Shri K. K. Mundul, Vice-President, All India Bank Employees Association, and Shri S. Y. Nadkarni, General Secretary, Comptoir National D'Escompte de Paris Staff Union.

Dated at Bombay this 15th day of June, 1965

INDUSTRY: Banking

STATE: Maharashtra.

AWARD

1. The Central Government by the Ministry of Labour and Employment's Order No. 51(12)/64-LR IV dated 16th March, 1964, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above-named in respect of the subject-matters specified in the following schedule to the said order, to me for adjudication.

SCHEDULE

"Whether having regard to the directions contained in the award dated the 21st July, 1962 of the National Industrial Tribunal (Bank Disputes, Bombay, published with the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2603, dated the 7th August, 1962, the management of Comptoir National D'Escompte de Paris (French Bank) was justified in declaring bonus to their workmen for the year 1962 at the rate of 16-2/3 per cent of the annual basic pay? If not, to what quantum of bonus are the workmen entitled?"

2. After the usual notices were issued, the All India Bank Employees Association, to which the Unions representing the workmen of this Bank at Bombay and Calcutta are affiliated, filed its written statement of claim dated 11th April 1964, to which the Bank filed its written statement in reply dated 6th June, 1964 and a further supplementary written statement dated 29th July 1964. Thereafter, the All India Bank Employees' Association (hereinafter referred to as the Association) filed a petition dated 9th October, 1964, for the production of documents and disclosure of information relating to various matters specified in the said petition, to which the Bank filed its written statement in reply dated 7th November, 1964, and submissions of the parties on the said petition were heard by me.

3. Thereafter, on 15th June, 1965 the representatives of the parties appeared before me and filed a joint application dated 14th June, 1965, which has been signed on behalf of the Bank by its General Manager, Shri A. Bourgault, and on behalf of the Association by its Vice-President, Shri K. K. Mundul, in which they have stated that under a Memorandum of Settlement dated 4th June, 1965, as per copy attached to the petition, a settlement had been entered into between the Bank and the various trade unions of its employees in respect of the payment of additional bonus for the years 1956 to 1964, both inclusive, in full and final settlement of the claims of the workmen for additional bonus for those years. The parties have submitted that the workmen's demand for bonus for the year 1962, which is the subject-matter of this reference, is covered by the aforesaid settlement, and the parties, therefore, prayed that the said settlement be taken on the file of this reference and the Tribunal be pleased to dispose of the reference as having been settled and no longer surviving. The terms of settlement dated 4th June, 1965, have been signed on behalf of the Bank by its General Manager for India, Shri A. Bourgault, and on behalf of the workmen of the Bank by Shri M. D' Silva, President and Shri S. Y. Nadkarni, General Secretary, Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay, and Shri B. C. Ghoshal, General Secretary, French Bank Employees' Association, Calcutta.

4. I am satisfied that a settlement has been reached between the Bank and the representatives of its workmen, which covers the dispute under reference as stated in the said joint application dated 14th June 1965, and the Memorandum of Settlement dated 4th June, 1965, copies of which are annexed hereto and marked Annexures "A" and "B" respectively.

5. In the result, I dispose of this reference as having been settled and no longer surviving.

6. No order as to costs.

Sd/- SALIM M. MERCHANT,
Presiding Officer,
Central Government Industrial Tribunal,
Bombay.

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE No. CGIT 37 of 1964

In the matter of Industrial Dispute vide Government of India Notification No. S.O.dated 7th April 1964.

BETWEEN

The Management of Comptoir National d'Escompte de Paris, French Bank Building, Homji St., Bombay-1.

AND

Their Workmen represented by the All-India Bank Employees Association, 710, Ballimaran, Chandni Chowk, Delhi-6.

Application on behalf of the Management of the Comptoir National d'Escompte de Paris and the All-India Bank Employees Association for filing the settlement dated 4th June 1965 entered into between the Bank and their Workmen.

1. The above mentioned dispute pending adjudication before this Hon'ble Tribunal has now been amicably settled between the Bank and all the Trade Unions of its employees, which are affiliated with the All India Bank Employees Association.

2. A Memorandum of Settlement dated 4th June 1965 has been entered into between the Bank and the various Trade Unions of its employees in respect of the payment of additional bonus for the years 1956 to 1964 (both inclusive) in full and final settlement of the claims of the workmen for additional bonus for these years. A copy of the said Settlement dated 4th June 1965 is annexed hereto.

3. It is respectfully submitted that the workmen's demand for bonus for the year 1962 pending adjudication before the Hon'ble Tribunal is covered by the aforesaid settlement and it is prayed that the said Settlement be taken on the record of the present reference pending before the Hon'ble Tribunal.

4. It is, therefore, prayed that in the aforesaid premises, this Hon'ble Tribunal may be pleased to dispose of the abovesaid reference as having been settled and no longer surviving.

Dated this 14th day of June 1965, at Bombay

For the
Comptoir National d'Escompte de Paris
A. BOURGAULT,
Manager.

For & on behalf of
All-India Bank Employees Association
K. K. MUNDUL,
Vice-President.

ANNEXURE "B"

MEMORANDUM OF SETTLEMENT

Bombay, the 4th June 1965

*Representing the employer:—*Mr. A. Bourgault, Manager for India, Comptoir National d'Escompte de Paris (French Bank).

*Representing the workmen:—*Mr. M. D' Silva, President, Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay Mr. S. Y. Nadkarni, General Secretary, Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay.

Mr. B. C. Ghoshal, General Secretary, French Bank Employees' Association, Calcutta.

Short Recital of the Case

The claims of the workmen represented by the Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay, and the French Bank Employees' Association, Calcutta, in respect of additional bonus to the staff of the Comptoir National d'Escompte de Paris (French Bank) in India for the years 1956 to 1961 are pending consideration before the Chief Labour Commissioner (Central), New Delhi. The Government of India by its Order dated 16th March 1964 referred the

dispute regarding bonus to the workmen for the year 1962 to the Industrial Tribunal at Bombay, which is pending adjudication under reference No. CGIT 57 of 1964. The employees of the Bank have been paid certain bonus for the year 1963-1964 but a demand has been made for payment of additional bonus for these years.

The parties had, therefore, mutual discussions with a view to arriving at an *ad hoc* settlement with regard to the claims for additional bonus for the year 1956 to 1964. After discussions, the matter was settled amicably on the following terms.

Terms of Settlement

1. It is agreed that this settlement has been entered into without prejudice to the Bank's contentions at law. It is further agreed that if in future a dispute is raised by any of the employees of the Bank with regard to the payment of additional or any bonus for any or all of the year 1956 to 1964 (both inclusive), it shall be open to the Bank to resist such a claim or claims on such grounds as are open to it including relevant provisions of the Bonus Award given by Mr. Justice K. T. Desai or the Banking Companies Act or any other law or ordinance by which the matter may be governed.

2. It is agreed that an *ad hoc* sum of an additional bonus of an amount equal to fifty percent of the annual bonus already paid for each of the years 1956 to 1960 (both inclusive) and of an amount equal to twenty-five percent of the annual bonus already paid for each of the years 1961 to 1964 (both inclusive) to be paid to each employee (whether workmen or non-workmen) in India, and in service of the Bank during the years 1956 to 1964 (both inclusive) or for such of the aforesaid years during which he may have been in the service of the Bank, provided that in case any employee who at the date of this settlement is no longer in the Bank's service, he or if he should have died earlier, his legal representative(s) shall be entitled to bonus, only on such employee or his legal representative(s) making an application to the Bank within six months from the date of this settlement. The Bank will be at liberty to refuse to entertain any claim received on or after 2nd December 1965.

For the purpose of calculation of the abovementioned fifty percent or twenty-five percent, only the yearly bonus will be taken into consideration.

3. The amount agreed to be paid as additional bonus for the years 1956 to 1964 (both inclusive) in pursuance of this settlement shall be disbursed only upon the employees executing a receipt in the form appended hereunder discharging the Bank from all liability for payment of bonus for the years in question.

4. The disbursement of additional bonus as per this settlement shall be made as expeditiously as possible, but in any event not later than 15th June 1965.

5. The parties agree that this *ad hoc* settlement entered into shall not be treated as a precedent or taken as a basis or govern the principle for determination of bonus in future, but nevertheless this settlement shall be final and binding on the parties as regards the amount of bonus payable for the years 1956 to 1964 (both inclusive), qualifications for eligibility and procedure as set out hereinabove.

6. The parties hereby undertake to file an application on or before 30th June 1965 before the Industrial Tribunal, Bombay for disposal of the Reference relating to the dispute regarding bonus for the year 1962, in terms of the settlement herein and the Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay, and the French Bank Employees' Association, Calcutta, hereby undertake to withdraw their bonus claims for the years 1956 to 1961 pending before the Chief Labour Commissioner, on or before 30th June 1965, and further undertake to withdraw their bonus claims for 1963 and 1964.

Form of Receipt

In terms of the settlement dated 4th June 1965 by and between the management of the Comptoir National d'Escompte de Paris (French Bank), and the Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay, and the French Bank Employees' Association, Calcutta, which I have read and understood and the terms of which I fully accept, I hereby acknowledge receipt of an amount of Rs. (Rupees.) being the additional bonus payable to me in terms of the settlement for the years in full and final settlement of all my claims against the Bank in respect of bonus for the years referred to above.

Payment had been received this the..... through the Comptoir National d'Escompte de Paris (French Bank)..... Branch.

Name of employee:—

Designation:—

Place:—

Date:—

Signature across Revenue stamp of
10 paise wherever necessary.

Dated this 4th day of June 1965 at Bombay.

- (1) Signed by Mr. A. Bourgault, Manager for India, Comptoir National d'Escompte de Paris (French Bank), Bombay, on behalf of the employer. In the presence of Mr. J. Thibault.
- (2) Signed by Mr. M. D'Silva, President, Comptoir National d'Escompte de Paris (French Bank) Staff Union, Bombay.
- (3) Signed by Mr. S. Y. Nadkarni, General Secretary, Comptoir National d'Escompte de Paris (French Bank) Staff Union Bombay.
- (4) Signed by Mr. B. C. Ghoshal, General Secretary, French Bank Employees' Association, Calcutta on behalf of the workmen in the presence of Mr. H. J. L. Pais
and
Mr. H. J. Wadia

Copies forwarded as required under Rule 58(4) of the Industrial Disputes (Central) Rules 1957, to

- (1) The Regional Labour Commissioner (Central), Bombay.
- (2) The Regional Labour Commissioner (Central), Calcutta.
- (3) The Chief Labour Commissioner (Central), New Delhi.
- (4) The Secretary to the Government of India, Ministry of Labour & Employment, New Delhi.

[No. F. 51(12)/64-LRIV.]

New Delhi, the 19th July, 1965.

S.O. 2326.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in respect of an industrial dispute between the management of the First National City Bank of New York and their workmen which was received by the Central Government on the 15th July, 1965.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY.

REFERENCE No. CGIT, 43 of 1964.

Employers in relation to the First National City Bank of New York, Bombay.

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant,—Presiding Officer.

For the Bank.—Shri R. Setlur, Solicitor of Messrs. Crawford Bailey and Co., Solicitors, assisted by Shri N. R. Pundit, Secretary to the Labour Secretariat for Banks, and Shri M. C. George, Pro-manager, First National City Bank of New York, Bombay.

For the All India Bank Employees' Association.—Shri K. K. Mundul, Vice President with Shri B. M. Mundkur, President, First National City Bank of Bombay Staff Association.

For the All India Bank Employees Federation.—Counsel Shri C. L. Dudhia, Bar-at-law, with Shri V. N. Sekhri, General Secretary.

Dated at Bombay this 9th day of July, 1965.

INDUSTRY: Banking

STATE: Maharashtra.

AWARD

1. The Central Government, by the Ministry of Labour and Employment's Order No. 51/(21)/64-LRV dated 7th April, 1964, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above-named in respect of the subject matters specified in the following schedule to the said order, to me for adjudication:—

SCHEDULE

"Whether having regard to the directions contained in the award dated the 21st July, 1962 of the National Industrial Tribunal (Bank Disputes), Bombay published with the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2603, dated the 7th August, 1962, the management of the First National City Bank of New York was justified in declaring bonus for 1962 at the rate of 10 per cent of the annual basic earnings in case of the workmen of the Bank? If not, to what quantum of bonus are the workmen entitled?"

2. After the All India Bank Employees' Association (hereinafter referred to as the Association) and the All India Bank Employees' Federation (hereinafter referred to as the Federation) had filed their statements of claim, and the First National City Bank of New York, Bombay (hereinafter referred to as the Bank) had filed its reply, arguments of the parties were heard on an application of the Association for production of records and documents. Thereafter, on 31st May, 1965, a joint application dated 27th May, 1965 was filed signed on behalf of the Bank by its Manager, Shri M. V. Stolen, and for and on behalf of the Association by its Vice President, Shri K. K. Mundul, in which the parties stated that a Memorandum of Settlement dated 5th May, 1965 had been entered into between the Bank and the various Trade Unions of its employees affiliated to the Association, in respect of the payment of additional bonus for the years 1956 to 1964 (both inclusive), in full and final settlement of the claims for additional bonus for those years. A copy of the said application dated 27th May, 1965 and of the said settlement dated 5th May, 1965, are annexed hereto and marked Annexures 'A' and 'B' respectively. I find that the settlement dated 5th May, 1965, (Annexure 'B'), is signed on behalf of the Bank by its General Manager, Shri M. V. Stolen, and its Pro-Manager, Shri M. C. George and on behalf of the workmen by (i) Shri R. S. L. Narsimhen, Vice President, First National City Bank of Bombay Staff Association, (ii) Shri H. C. Das, Vice President, First National City Bank Employees Association, Calcutta, (iii) Shri B. Madhukar Rao, Treasurer First National City Bank Staff Association, Madras, (iv) Shri K. K. Mundul, Vice President of the Association and (v) Shri S. L. Murdeshwar, General Secretary, First National City Bank Bombay Staff Association.

3. Upon receipt of the said joint application dated 27th May, 1965 I issued notices on the parties above-named as also the General Secretary of the All India Bank Employees' Federation, intimating them of the joint application and the settlement dated 5th May, 1965 reached between the Bank and the Association and called upon them to show cause why an award should not be made in terms thereof, and at the adjourned hearing on 5th July, 1965, of which notice was given to the Federation by registered post, no one appeared on behalf of the Federation to oppose the said application and settlement whilst representatives of the Bank and the Association appeared at the hearing on 5th July, 1965 and supported the same.

4. In this reference, the dispute is with regard to bonus for the year 1962, and it is clear that the same has been settled by the Association and the Bank under the terms of their Memorandum of settlement dated 5th May, 1965. I find that for that year the workmen will be entitled to an additional amount equivalent to 150 per cent of the amount of bonus already paid for that year. I am satisfied that the settlement is a *bona-fide* one and there is no reason why I should not accept the same and treat this reference as having been settled and no longer surviving, particularly as the Federation though served with notice has not appeared or stated anything to oppose the settlement.

5. In the facts and circumstances of the case as stated above, I accept the dispute as having been settled and there is no reason to doubt the *bona-fides* of the settlement. In the result, the dispute for bonus for the year 1962 under reference is disposed of as settled and no longer surviving.

6. No order as to costs.

(Sd.) SALIM M. MERCHANT,
Presiding Officer.

ANNEXURE 'A'
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT BOMBAY

REFERENCE No. C.G.I.T. 43 of 1964

In the matter of Industrial Dispute vide Government of India Notification
 No. S.O. dated 7th April, 1964.

BETWEEN

The Management of The First National City Bank, 293, Dadabhoy Naoroji
 Road, Bombay-1.

AND

Their Workmen represented by the All-India Bank Employees Association,
 710, Ballimaran, Chandni Chowk, Delhi-6.

Application on behalf of the Management of the First National City Bank
 and All India Bank Employees' Association, for filing the settlement
 dated May 5, 1965 entered into between the Bank and their workmen.

1. The above mentioned dispute pending adjudication before this Hon'ble Tribunal has now been amicably settled between the Bank and all the Trade Unions of its employees, which are affiliated with the All India Bank Employees' Association.

2. A memorandum of Settlement dated May, 1965, has been entered into between the Bank and the various Trade Unions of its employees in respect of the payment of additional bonus for the years 1956 to 1964 (both inclusive) in full and final settlement of the claims of the workmen for additional bonus for these years. A copy of the said Settlement dated May 5, 1965 is annexed hereto.

3. It is respectfully submitted that the workmen's demand for bonus for the year 1962 pending adjudication before the Hon'ble Tribunal is covered by the aforesaid settlement and it is prayed that the said Settlement be taken on the record of the present reference pending before this Hon'ble Tribunal.

4. It is, therefore, prayed that in the aforesaid premises this Hon'ble Tribunal may be pleased to dispose of the above said reference as having been settled and no longer surviving.

Dated this twenty seventh day of May 1965 at Bombay

FOR THE FIRST NATIONAL
 CITY BANK

FOR AND ON BEHALF OF
 THE ALL-INDIA BANK EMPLOYEES
 ASSOCIATION

Sd./-

M. V. STOLEN, Manager.

Sd./-

K. K. MANDAL, Vice President.

ANNEXURE 'B'

MEMORANDUM OF SETTLEMENT

Bombay, May 5, 1965

Representing the employer.—Mr. M. V. Stolen, Manager First National City Bank, Bombay.

Representing the workmen.—Mr. R. S. L. Narasimhan, Vice President First National City Bank Bombay Staff Association, Bombay.

Mr. H. C. Das, Vice-President First National City Bank Employees Association, Calcutta.

Mr. B. Madhukar Rao, Treasurer First National City Bank Staff Association, Madras.

Short Recital of the case

The claims of the workmen represented by the First National City Bank, Bombay Staff Association, Bombay, the First National City Bank Employees Association, Calcutta and First National Bank Staff Association, Madras in respect of additional bonus to the staff of Bombay, Calcutta and Madras Branches of First National City Bank for the years 1956 to 1961 are pending consideration before the Chief Labour Commissioner (Central), New Delhi. The Government of India by its order No. 51(21)64-IRIV dated 7th April 1964 referred the dispute regarding bonus to the workmen for the year 1962 to the Central Government

Industrial Tribunal at Bombay, which is pending adjudication. The employees of the Bank have been paid certain bonus for the years 1963 and 1964 but a demand has been made for payment of additional bonus for those years.

The parties therefore had mutual discussions with a view to arriving at a settlement with regard to the claim for additional bonus for the years 1956 to 1964. After prolonged discussions, the matter was settled amicably on the following terms.

Terms of Settlement

1. It is agreed that this settlement has been entered into without prejudice to the Bank's contentions at law. It is further agreed that if in future a dispute is raised by any of the employees of the Bank with regard to the payment of additional or any bonus for any or all of the years 1956 to 1964 (both inclusive), it shall be open to the Bank to resist such a claim or claims on such grounds as are open to it including relevant provisions of the Bonus Award given by the Justice K. T. Desai or the Banking Companies Act or any other law by which the matter may be governed.

2. It is agreed that an additional bonus of an amount equal to one hundred per cent of the annual bonus already paid for each of the years 1956 to 1961 (both inclusive) and of an amount equal to one hundred and fifty per cent of the annual bonus already paid for each of the years 1962 to 1964 (both inclusive) shall be paid in full and final settlement of all claims for the years 1956 to 1964 (both inclusive) to each workman in India and in service of the Bank during the years 1956 to 1964 (both inclusive) or for such of the aforesaid years during which he may have been in the service of the Bank, *Provided that* in case any workman who at the date of this settlement is no longer in the Bank's service or if he should have died earlier, his legal representatives shall be entitled to and be paid bonus only such workman or his legal representatives making an application to the Bank within six months from the date of this settlement. The Bank will be at liberty to refuse to entertain any claims received on or after November 4, 1965.

3. The amount agreed to be paid as additional bonus for the years 1956 to 1964 (both inclusive) in pursuance of this settlement shall be disbursed only upon the workmen executing a receipt in the form appended hereunder discharging the Bank from all liability for payment of bonus for the years in question.

4. The disbursement of additional bonus as per this settlement shall be made as expeditiously as possible but in any event not later than May 26, 1965.

5. The parties agree that this settlement shall not be treated as a precedent or taken as the basis or govern the principle for the determination of bonus in future but nevertheless this settlement shall be final and binding on the parties as regards the amount of bonus payable for the years 1956 to 1964 (both inclusive), qualifications for eligibility and procedure as set out hereinabove.

6. The parties hereby undertake to file an application on or before May 26, 1965 before the Central Government Industrial, Bombay, for disposal of the reference relating to the dispute regarding bonus for the year 1962, in terms of the settlement herein and the First National City Bank Staff Association, Bombay, the First National City Bank Employees' Association, Calcutta and the First National City Bank Staff Association, Madras hereby undertake to withdraw their bonus claims for the years 1956 to 1961 pending before the Chief Labour Commissioner on or before May 26, 1965 and further undertake to withdraw their bonus claims for the years 1963 and 1964.

Forms of Receipt

In terms of settlement dated May 5, 1965 by and between the Management of First National City Bank and the First National City Bank Bombay Staff Association, Bombay, the First National City Bank Employees' Association, Calcutta and the First National City Bank Staff Association, Madras, which I have read and understood and the terms of which I fully accept, I hereby acknowledge receipt of an amount of Rs. (Rupees) being the additional

bonus payable to me in terms of the settlement for the years in full and final settlement of all my claims against the Bank in respect of bonus for the years referred to above. Payment has been received this the through the First National City Bank branch.

Name of employee:

Designation:

Place:

Date:

Signature across Revenue Stamp
of 10 Paise wherever necessary.

Dated this 5th day of May 1965, at Bombay.

- (1) Signed by Mr. M. V. Stolen, Manager,
First National City Bank, Bombay,
on behalf of the employer
in the presence of Mr. M. C. George,
Pro-Manager First National City
Bank, Bombay.

(Sd.)

- (2) Signed by Mr. R. S. L. Narasimhan, Vice
President, First National City Bank
Bombay Staff Association, Bombay

(Sd.)

Signed by Mr. H. C. Das, Vice Presi-
dent First National City Bank Em-
ployees' Association, Calcutta

(Sd.)

Signed by Mr. B. Madhukar Rao,
Treasurer, First National City Bank,
Staff Association, Madras

(Sd.)

All On behalf of the workmen in the
presence of Mr. K. K. Mundal, Vice-
President, All-India Bank Employees'
Association and

(Sd.)

Mr. S. L. Murdeshwar, General Secre-
tary, First National City Bank Bom-
bay Staff Association, Bombay

(Sd.)

Copies forwarded, as required under Rule 58(4) of the Industrial Disputes
(Central) Rules 1957, to:—

- (1) The Regional Labour Commissioner (Central), Bombay;
- (2) The Chief Labour Commissioner (Central), New Delhi;
- (3) The Secretary to the Government of India, Ministry of Labour and
Employment, New Delhi.

[No. F.51(21)/64-LRIV.]

ORDER

New Delhi, the 16th July 1965

S.O. 2327.—Whereas the employers in relation to the Bombay Port Trust, Bombay and their workmen represented by the Bombay Port Trust General Workers' Union, Bombay have jointly applied to the Central Government for reference of an industrial dispute that exists between them in respect of the matter set forth in the said application and reproduced in the Schedule hereto annexed, to a Tribunal;

And, whereas the Central Government is satisfied that the Bombay Port Trust General Workers' Union represents the majority of the workmen;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Bombay constituted under section 7A of the said Act.

SCHEDULE

Whether the order of merit-cum-suitability followed in determining the *inter se* seniority of the Clerks, 'A' scale of the Accounts Department who were selected after a test in 1962 for appointment as and when vacancies arose to posts of Audit Inspector, Grade II, in that Department and eventual absorption in the Inspectorate cadre needs any modification and, if so, in what respects.

[No. F. 28/56/65/LRIV.]

O. P. TALWAR, Under Secy.

New Delhi, the 14th July, 1965.

S.O. 2328.—In exercise of the powers conferred by sub-section (1) of section 10 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby makes the following corrections in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 4370 dated the 19th December, 1964, namely:—

In the said notification,—

- (i) for the word "revises", the word "fixes" shall be substituted;
- (ii) in the Schedule, under the heading "Categories of employees", for the words "Semi-skilled male workers", the words "Literate male workers" shall be substituted.

[LWI(I)6(3)/64.]

HANS RAJ CHHABRA, Under Secy.

MINISTRY OF PETROLEUM & CHEMICALS

New Delhi, the 12th July, 1965

S.O. 2329.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Kanpur in Uttar Pradesh State pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

2. Now therefore, in exercise of the powers conferred by Sub-Section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of pipelines under the land to the Competent Authority at 7/166, Swarupnagar, Kanpur. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

State—Uttar Pradesh			District: Allahabad		Tahsil—Sirathu	
Village	Survey No.	Extent	Village	Survey No.	Extent	
		B.B.B.			B.B.B.	
Saiyara Mithepur .	1892	0 6 0	Kanwar . . .	2983	0 6 0	

[No. 31/50/63-ONG-Vol. 2.]

S.O. 2330.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State and Haldia Port in Calcutta in West Bengal State, pipelines should be laid by the Indian Oil Corporation Limited and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto.

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the competent authority, 9, Syed Amir Ali Avenue, Calcutta—17 in the office of the Indian Oil Corporation Limited. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

STATE : West Bengal			Dist : Howrah		Tehsil/Thana : Uluberia	
Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)	
Madhubati, J.L. 7	161	·16	Madhubati, J.L. 7—contd	255	·05	
	162	·12		256	·14	
	163	·05		257	·23	
	164	·01		258	·06	
	166	·45		259	·05	

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Madhubati, J.L. 7— <i>contd.</i>	260	·32	Palara, J.L. 10— <i>contd.</i>	110	·04
	261	·18		195	·12
	285	·005		196	·14
	288	·01		200	·14
	289	·11		201	·05
	290	·14		203	·04
	291	·28		204	·03
	293	·21		205	·05
	320	·24		206	·08
	322	·38		235	·08
	323	·24		236	·07
	324	·05		237	·20
	326	·07		244	·08
	327	·10		245	·05
	328	·06		246	·005
	333	·20		322	·05
	334	·07		323	·02
	335	·005		324	·32
	374	·04		328	·12
Amraberia, J.L. 8	7	·01	Srirampur, J.L. 12	40	·20
	8	·11		41	·00
	11	·32		42	·04
	12	·15		44	·12
	14	·01		45	·07
	32	·18		46	·07
	34	·07		49	·03
	35	·09		50	·22
	36	·18		51	·05
	41	·09		71	·01
	42	·04		400	·03
	43	·06		407	·02
	48	·02		408	·18
	198	·03		409	·01
	389	·02		410	·24
Palara, J.L. 10	232	·05		412	·05
	273	·17		421	·08
	312	·04		426	·03
	318	·15		427	·04
	319	·26		429	·22
	320	·34		430	·01
	326	·22		802	·01
	327	·01		804	·18
	339	·05		811	·02
	340	·18		812	·20
	343	·05		813	·04
	367	·32			
	368	·14	Mahishrekha, J. L. 13	236	·005
	369	·01		383	·03
	421	·09		651	·09
	422	·03		728	·22
	423	·32		730	·22
	424	·02		731	·02
	429	·02		732	·40
				733	·01
	77	·12		757	·03
	80	·22		760	·02
	81	·03		761	·09
	82	·05		762	·01
	83	·18		764	·36
	85	·01		765	·03
	87	·05		792	·01
	109	·40		793	·15

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot No.)	Extent (Area)
Mahishrekha, J. L. 13— <i>contd.</i>	794	·02	Nayachak, J. L. 57— <i>contd.</i>	579	·22
	798	·03		580	·14
	799	·18		615	·01
	800	·07		618	·02
	801	·10		619	·12
	820	·03		620	·12
	821	·12		641	·10
	824	·05		924	·14
	825	·07		925	·09
	826	·01		926	·22
	830	·005		927	·12
	831	·18		929	·30
	832	·15		930	·03
	833	·09	Joargar, J.L. 58	4366	·03
	834	·09		4375	·02
	835	·10		4386	·02
	836	·07		4394	·005
	837	·04		4395	·16
	838	·03		4396	·06
	839	·03		4401	·10
Madhabpur, J.L. 14	83	·06		4402	·005
	86	·21		4403	·06
	87	·38		4404	·06
	88	·02		4405	·36
	91	·18		4406	·05
	92	·03		4410	·005
	93	·02		4418	·06
	94	·01		4419	·10
	153	·05		4420	·05
	176	·03		4433	·12
	177	·04		4434	·07
	178	·07		4439	·10
	179	·08		4440	·06
	180	·02		4761	·01
	200	·07		4763	·04
	207	·07		4765	·30
	209	·11		4766	·10
	210	·14		4771	·05
	212	·30		4773	·14
	213	·10		4775	·02
	214	·06		4479	·03
	216	·10		4780	·36
	217	·005		4781	·30
Nayachak, J. L. 57	378	·60		4782	·15
	461	·09		4783	·06
	471	·30		4851	·02
	472	·15		4852	·04
	473	·03		4950	·02
	476	·01		4994	·05
	482	·04		5015	·06
	483	·36	Baniban Jagadishpur,		
	484	·20	J.L. 62	2436	·16
	486	·18		2439	·08
	487	·20		2440	·005
	488	·09		2443	·40
	545	·03		2446	·18
	546	·07		2447	·005
	547	·01		2472	·30
	548	·06		2485	·04
	558	·03		2537	·10
				2538	·22
				2541	·26
				2542	·12

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Baniban, Jagadishpur J. L. 62 — <i>contd.</i>	2544	·10	Karatber, J.L. 64— <i>contd.</i>	190	·12
	2545	·34		191	·10
	2546	·26		404	·36
	2548	·005		405	·24
	2549	·22		406	·005
	2550	·02		411	·05
	2552	·02		412	·20
	2571	·15		415	·20
	2572	·06		416	·005
	2576	·16		483	·04
	2577	·08		484	·22
	2578	·07		485	·005
	2579	·01		486	·58
	2581	·16		487	·22
	2613	·03		488	·02
	2658	·02		501	·12
	2660	·08		502	·05
	2661	·20		504	·005
	2662	·05		507	·04
	2663	·24		509	·09
	2664	·05		510	·05
	2665	·20		511	·03
	2666	·20		513	·30
	2667	·24		1004	·31
	2668	·05		1006	·07
	2672	·09		1007	·24
	2673	·30		1015	·18
Baniban, J. L. 63	295	·18		1016	·05
	320	·24		1025	·03
	321	·03	Brindabanpur, J.L. 90	16	·03
	322	·10		39	·07
	323	·02		40	·12
	324	·26		52	·08
	403	·005		53	·36
	407	·16		55	·22
	408	·18		57	·22
	409	·22		58	·02
	410	·06		59	·005
	441	·04		71	·03
	456	·12		77	·01
	457	·03		80	·01
	459	·02		81	·17
	462	·14		82	·23
	545	·08		83	·12
	546	·10		85	·02
	547	·14		86	·10
	548	·12		87	·02
	549	·02		101	·01
Karatber, J.L. 64	581	·32		146	·04
	584	·005		155	·08
	585	·12		156	·10
	586	·02		157	·03
	733	·04		158	·20
	737	·02		159	·04
	164	·03		162	·02
	165	·20		164	·07
	166	·32		168	·005
	181	·10		169	·15
	182	·07		170	·18
	183	·02		171	·01
	185	·005		172	·14
	189	·22		173	·18
				174	·04

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Brindabanpur J. L. 90— <i>contd.</i>	175	·07	Basudebpur,	2052	·05
	192	·01	J.L. 93— <i>contd.</i>	2053	·01
	193	·18		2061	·005
	194	·14		2062	·30
	357	·03		2063	·11
	380	·06		2064	·02
	381	·20		2070	·17
	394	·54		2071	·02
	397	·24		2075	·18
	398	·12		2087	·005
	399	·32		2089	·42
	404	·05		2090	·01
	871	·04		2091	·09
				2092	·20
Kantaberia, J. L. 91 .	4001	·08		2093	·01
	4017	·15		2103	·01
	4018	·08		2357	·02
	4019	·08		2359	·02
	4294	·01		4046	·02
	4295	·02		4080	·01
	4296	·03		4086	·02
	4297	·11		4087	·20
	4298	·08		4088	·24
	4300	·04		4089	·11
	4301	·06		4090	·005
	4324	·15		4091	·07
	4325	·30		4101	·02
	4341	·04		4108	·42
	4342	·09		4112	·04
	4343	·11		4114	·005
	4344	·07		4121	·07
	4364	·22		4122	·05
	4365	·17		4123	·10
	4366	·02		4124	·16
	4367	·20		4125	·06
	4368	·14		4126	·07
	4382	·12		4127	·04
	4383	·11		4132	·005
	4384	·005		4184	·005
	4385	·34		4185	·12
	4387	·18		4186	·09
	4388	·16		4187	·005
	4389	·28		4188	·07
	4391	·02		4189	·07
	4392	·01		4191	·03
	4393	·005		4192	·005
	4396	·12		4200	·07
	4397	·24		4201	·02
				4208	·06
Basudebpur, J.L. 93 .	417	·08		4209	·20
	726	·09		4210	·09
	762	·06		4211	·20
	763	·28		4212	·005
	764	·16		4238	·12
	765	·04		4239	·22
	766	·04		4253	·06
	2034	·08		4254	·04
	2035	·03		4255	·25
	2037	·01		4256	·01
	2038	·04		4257	·09
	2039	·02		4258	·10
	2041	·14		4536	·06
	2048	·20		4538	·12
	2051	·21		4539	·06

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Basudebpur, J.L. 93— <i>contd.</i>	4540	·10	Bar Ramnagar, J.L. 97— <i>contd.</i>	1267	·005
	4663	·06		1269	·16
	4664	·10		1270	·12
	4666	·18		1272	·22
	4667	·02		1276	·005
	4671	·17		1302	·04
	4672	·005		1303	·05
	4710	·02		1304	·10
	4718	·06		1305	·05
	4722	·12		1306	·09
	4719	·08		1310	·10
	4720	·10		1311	·12
	4721	·12		1312	·02
	4723	·01		1313	·01
	4725	·005		1314	·04
	4726	·05		1315	·06
	4727	·08		1316	·07
	4728	·04		1317	·02
	4731	·22		1341	·05
	4752	·02		1382	·04
	5221	·02		1398	·02
	5235	·32		1399	·01
	5255	·03		1400	·10
				1401	·01
Bar Ramnagar, J.L. 97	637	·005		1424	·04
	638	·06		1430	·12
	639	·07		1432	·02
	640	·18		1700	·02
	641	·01		1427	·01
	660	·08		1428	·02
	661	·03		1429	·06
	662	·04		1491	·03
	663	·04			
	664	·12	Surikhali J. L. 98	78	·04
	665	·14		147	·005
	666	·07		148	·16
	667	·07		149	·24
	676	·005		150	·02
	732	·04		151	·03
	959	·12		152	·14
	1060	·08		154	·10
	1062	·09		248	·02
	1063	·12		423	·005
	1070	·03		424	·14
	1110	·16		425	·005
	1111	·08		426	·12
	1112	·06		427	·12
	1115	·16		428	·04
	1116	·07		430	·10
	1118	·07		431	·10
	1119	·18		432	·005
	1145	·18		504	·08
	1146	·06		505	·06
	1151	·005			
	1152	·02			
	1153	·05	Raghudebpur J.L. 99	128	·18
	1154	·05		129	·32
	1155	·04		130	·08
	1156	·02		131	·16
	1262	·005		142	·05
	1263	·005		143	·07
	1264	·05		144	·08
	1265	·04		145	·18
	1266	·03		146	·30

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Raghudebpur J. L. 99	147	·005	Raghudebpur J.L. 99	1669	·15
—contd.	159	·16	—contd.	2335	·02
	1136	·03		2336	·22
	1138	·05		2338	·18
	1139	·16		2346	·03
	1141	·005		2348	·01
	1150	·01		2349	·03
	1152	·28		2350	·10
	1153	·02		2351	·12
	1154	·08		2352	·03
	1156	·10		2353	·15
	1157	·04		2354	·08
	1164	·005		2355	·03
	1336	·005		2517	·02
	1338	·12		2524	·03
	1339	·02		2525	·005
	1340	·14		2526	·005
	1345	·24		2527	·06
	1355	·005		2529	·03
	1356	·40		2530	·03
	1359	·07		2531	·12
	1360	·10		2533	·005
	1361	·04		2544	·01
	1420	·09		2545	·01
	1425	·25		2586	·10
	1427	·20		2587	·16
	1428	·11		2588	·36
	1429	·08		2596	·35
	1431	·12		2597	·02
	1435	·30		2611	·19
	1436	·07		2612	·17
	1437	·02		2613	·10
	1457	·38		2647	·20
	1458	·04		2652	·10
	1459	·02		2653	·005
	1460	·36		2654	·38
	1461	·16		2655	·15
	1462	·03		2656	·005
	1463	·04		2665	·18
	1464	·02		2669	·02
	1465	·04		2670	·32
	1466	·01		2675	·07
	1467	·14			
	1472	·005	Gharbhanga Basudeb-	4	·02
	1477	·02	pur J. L. 100	5	·06
	1478	·01		26	·10
	1486	·10		27	·09
	1511	·10		28	·10
	1512	·18		30	·01
	1513	·08		31	·01
	1514	·20		37	·20
	1515	·01		40	·08

[No. 31(33)/63-ONG-Vol.24.]

New Delhi, the 14th July 1965

S.O. 2331.—Whereas by notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1242, dated the 9th April, 1965 under subsection (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State—WEST BENGAL

Dist—Hooghly

Thana—Haripal

Village	Survey Nos. (Plot Nos.)	Extent (Area)	Village	Survey Nos. (Plot Nos.)	Extent (Area)
Bahir Khanda, J.L. 19	330	·25		1156	·30
	372	·04		1168	·18
	375	·005		1170	·08
	564	·12		1172	·03
	565	·06		1180	·09
	569	·06		1181	·04
	575	·44		1182	·06
	595	·12		1185	·02
	596	·13		1188	·04
	597	·02		1395	·10
	1138	·03		1401	·005
	1150	·03		2006	·08
	1152	·12		2017	·04

[No. 31(33)/63-ONG-Vol. 2.]

S.O. 2332.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1625, dated the 10th May, 1965 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State—Uttar Pradesh

Distt.—Ghazipur

Tahsil—Zamania.

Village	Survey No.	Extent B.B.B.	Village	Survey No.	Extent B.B.B.
1. Harikaranpur	67	0 1 0	5. Harinathpur— <i>contd.</i>	1376	0 0 5
	70	0 0 10		1384	0 0 10
	74/1	0 1 0		2194	0 2 0
	74/2	0 0 10		2200	0 0 15
	76	0 1 10		2203	0 0 10
	130	0 1 10		2204	0 1 4
	131	0 0 10		2205	0 0 16
	142	0 0 10	6. Manjhar Khurd	226	0 1 0
	146/1	0 0 10		227/2	0 1 10
	146/2	0 1 0		235	0 0 15
	150	0 1 0		234	0 0 10
	153	0 0 10		251/2	0 0 10
2. Sakandarpur	683	0 0 10		253	0 0 10
	684/1	0 1 0		256	0 0 10
	685	0 2 0		261	0 1 0
	711	0 2 0	7. Maniyau	38	0 0 10
	717	0 2 0		41	0 0 10
	718/2	0 0 5		360/1	0 1 5
	719	0 1 15		361	0 2 0
	733	0 1 0		362/1	0 0 15
	734/1	0 0 10		362/2	0 2 0
	734/2	0 0 10		367/1	0 0 5
	753	0 0 10		367/2	0 0 5
	756	0 0 10		367/3	0 0 5
	757	0 1 0		368/1	0 1 0
	759	0 1 5		568/2	0 0 10
	1191	0 1 0		372	0 1 0
	900	0 0 10		373	0 0 11
	1022	0 0 10	8. Usja	3184	0 1 0
	1025, 2	0 0 5		3188	0 1 5
	1100	0 1 0		3210	0 0 10
	1113	0 1 0		3247	0 1 0
	1117	0 1 0	9. Dildar Nagar	2166/1	0 1 19
	1121	0 1 10		2170/4	0 0 10
	1160	0 1 0		2234/1	0 2 0
	1167	0 0 10		3692/4	0 1 0
	1168	0 0 13	10. Jagwal	363	0 0 10
	1169	0 1 0		366	0 2 10
	1175	0 2 0		370	0 0 10
	1177	0 1 0		371/1	0 1 0
	1178	0 1 0		373	0 0 10
	1190	0 1 5		374	0 1 10
3. Khemapur.	141	0 1 0		375	0 2 0
	145	0 0 15	11. Marotiya Makarand alias Karjahi	203	0 1 0
	148	0 1 0		205	0 2 0
4. Patkholiya	2436/5	0 1 0	12. Baruin	104	0 0 10
	2438	0 1 0		119	0 0 4
	2545	0 1 0		127/2	0 1 0
	2554/2	0 0 10		128/2	0 1 0
	2555/1	0 0 10		463	0 1 0
5. Harinathpur	742	0 0 10		460	0 1 0
	743	0 0 10		418	0 0 10
	1324	0 0 10		471	0 0 5
	1327	0 0 10		473	0 2 0
	1340	0 0 10			
	1347	0 1 0			
	1375	0 0 10			

Village	Survey No.	Extent B.B.B.	Village	Survey No.	Extent B.B.B.
12. Baruin— <i>contd.</i>	559	0 1 0	13. Elaichi Pur— <i>contd.</i>	492	0 3 10
	562	0 1 0		493	0 3 0
	566	0 1 0		494	0 2 0
				495	0 2 0
13. Elaichi Pur	310/10	0 0 10		501/3	0 4 0
	310/11	0 3 10		502	0 3 0
	313/4	0 3 0		520	0 1 0
	313/3	0 3 10		521	0 0 5
	313/7	0 1 0		558	0 2 0
	322	0 2 10		561	0 0 15
	323	0 12 0		564	0 2 0
	446 I	0 1 15		565	0 2 10
	447	0 1 10		592	0 0 10

[No. 31(50)/63-ONG. Vol. 3.]

S.O. 2333.—Whereas by notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1622, dated the 7th May, 1965 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended, to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State—Uttar Pradesh			Tahsil—Chandauli			Distt—Varanasi		
Village	Survey No.	Extent Acre Decimal	Village	Survey No.	Extent Acre Decimal			
1. Harna Tanda	28	0 44	3. Pitha Pur—contd.	748	0 03			
	30/2	0 05		763/1	0 02			
	30/53/1	0 25		764	0 02			
	30/53/2	0 15		767/1	0 04			
				769	0 07			
2. Siktha	629	0 01		770	0 05			
	640	0 08		772	0 08			
	646	0 05		773	0 04			
	652	0 01		1037	0 01			
				1038	0 04			
3. Pitha Pur	737/1	0 01		1048	0 01			
	737/2	0 01		1049	0 01			
	745	0 05		1050	0 01			
	747	0 01		1051	0 02			

Village	Survey No.	Extent Acre Decimal	Village	Survey No.	Extent Acre Decimal
3. Pitha Pur— <i>contd.</i>	1064	0 01	8. Sanghari— <i>contd.</i>	428	0 08
	1066	0 03		429	0 01
	1068	0 02		431	0 06
	1122	0 01		432	0 02
	1123	0 01		433	0 01
	1124	0 01		434	0 01
	1125	0 01			
	1138	0 01	9. Bagahi	22/5	0 03
	1139	0 01		34/1	0 03
	1142	0 01		54/18	0 10
				54/26	0 14
4. Paura	216	0 04		62	0 09
	237	0 04		63	0 01
	239	0 01		65	0 05
	243	0 01		66	0 06
	250	0 06		67	0 02
	253	0 02			
	263	0 02	10. Kakrahi Khurd	31/2	0 02
	265	0 01		104/6	0 02
	266	0 09		134	0 02
	267	0 02		142	0 01
	268	0 04		28	0 01
	613	0 01		137	0 01
5. Batthi	432	0 01	11. Kudha Kalan . .	340/3	0 01
	437	0 01			
	442	0 01	12. Jeevan Pur . .	502/3	0 02
	443	0 01		533	0 02
	444	0 01			
	448/1	0 01	13. Kori	4/2	0 11
	452/1	0 01		5	0 08
	474	0 01		12/1	0 06
	646	0 10		16	0 02
	651/1	0 03		136/2	0 06
	651/2	0 06		137	0 05
	652/1	0 04			
	652/2	0 04	14. Nasir Pur Pattam	92	0 08
	662/1	0 10		93	0 08
	663	0 11			
6. Goijar	52	0 03	15. Mawai Khurd . .	1/1	0 15
				19	0 02
7. Bhoja Pur . . .	219	0 06		20	0 06
	223	0 02		25/1/2	0 03
8. Sanghari	294	0 02	16. Saarsar	205	0 01
	297	0 03		231	0 12
	303/1	0 02		236	0 01
	303/2	0 02		461	0 03
	303/3	0 02		462/1	0 02
	303/4	0 04		523	0 02
	303/5	0 02		525	0 05
	318	0 03		528	0 03
	350/6	0 03		531/1	0 01
	350/10	0 01		537/1	0 01
	350/13	0 03		544/2	0 03
	353	0 01		544/4	0 03
	426	0 11		544/6	0 04
				523	0 23

[No. 31(50)/63-ONG. Vol. 4.]

S.O. 2334.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1493, dated the 28th April, 1965, under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention

to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 5 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State—Uttar Pradesh

District—Allahabad

Tehsil—Meja

Village	Survey No.	Extent B.B.B.	Village	Survey No.	Extent B.B.B.
Kathauli	732	0 2 5		733	0 0 5
Bisahjan Khurd	356	0 0 15			

[No. 31(50)/63-ONG. Vol. 3.]

S.O. 2335.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1673, dated the 18th May, 1965 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

State—Gujarat

District—Broach

Taluka—Hansot

Village	Survey No.	Acre	Guntha	Sq. Yds.
Ghodadra	160	0	18	55

[No. 31/38/63-ONG.]

New Delhi, the 15th July 1965.

S.O. 2336.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1243, dated the 9th April, 1965 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas, the Competent Authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that Section, the Central Government directs that the right of user in the said lands, shall instead of vesting in the Central Government, vest on the date of publication of this declaration in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

State—West Bengal

Distt.—Burdwan

Thana—Asansol

Village	Survey nos. (Plot nos.)	Extent (Area)
Kalla, J.L. 16	703	·01

[No. 31(33)/63-ONG-Vol. 5.]

H. C. SHARMA, Under Secy.

